

*Selected Acts of the 2015  
Virginia General Assembly*



*Compiled by  
The Virginia Department of State Police*

This volume of Selected Acts contains legislation passed by the 2015 Session of the Virginia General Assembly that is relevant to criminal law and highway safety. Additional copies of this reference guide may be found at the Virginia State Police website at: <http://www.vsp.state.va.us/FormsPublications.shtm>.

#### EXPLANATIONS WHICH MAY BE HELPFUL IN STUDYING THESE ACTS:

1. *Italicized* words indicate new language.
2. ~~Line through~~ words indicate language that has been removed.
3. The table of contents is divided into four categories: Traffic, Criminal, Firearms and Miscellaneous. The bills in those categories are presented in either **full text** or **summary** form. Summarized bills are less relevant, yet still important legislation, and are found at the back of each section. Although summarized bills are not discussed in the recorded Selected Acts presentation, they should be reviewed.
4. Emergency Acts - are Acts with an emergency clause and were effective the moment they were signed by the Governor. Generally, the emergency clause appears as the last sentence of the Act.
5. Effective date - All Acts, other than those containing an emergency clause or those specifying a delayed effective date, become law on July 1, 2015. Note that different portions of a bill may carry different effective dates.
6. A brief overview outlining changes, provided by the Division of Legislative Services, appears at the beginning of each full text bill. This overview is only a brief synopsis of the bill. Before taking any enforcement action, carefully read the entire bill. Also, note that the Table of Contents contains a bill description which is not necessarily the same as the short title of the bill.
7. Questions regarding Selected Acts may be directed to the Office of Legal Affairs at (804) 674-6722.
8. Additional information on legislation may be found at: <http://virginiageneralassembly.gov> and the Virginia State Police website at [www.vsp.state.va.us](http://www.vsp.state.va.us).

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## TRAFFIC – FULL TEXT

**Following too closely.** Includes non-motor vehicles (bicycles, electric assistive mobility devices, electric power-assisted bicycles, and mopeds) among vehicles that the driver of any motor vehicle shall not follow more closely than is reasonable. This bill is identical to [SB 1220](#).

### CHAPTER 188

*An Act to amend and reenact § [46.2-816](#) of the Code of Virginia, relating to drivers following too closely.*

[H 1342]

Approved March 16, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [46.2-816](#) of the Code of Virginia is amended and reenacted as follows:

§ [46.2-816](#). Following too closely.

The driver of a motor vehicle shall not follow another ~~motor~~ vehicle, trailer, or semitrailer more closely than is reasonable and prudent, having due regard to the speed of both vehicles and the traffic on, and conditions of, the highway at the time.

**Flashing lights on motor vehicles; "move over" law.** Allows vehicles that assist with the management of roadside and traffic incidents or that perform traffic management services along public highways to be equipped with flashing, blinking, or alternating amber warning lights. Virginia's "move over" law applies to such vehicles. A violation of this provision is punishable as a traffic infraction.

#### CHAPTER 41

*An Act to amend and reenact § 46.2-1025 of the Code of Virginia, relating to vehicles equipped with flashing amber, purple, or green warning lights.*

[H 1344]

Approved March 10, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [46.2-1025](#) of the Code of Virginia is amended and reenacted as follows:

§ [46.2-1025](#). Flashing amber, purple, or green warning lights.

A. The following vehicles may be equipped with flashing, blinking, or alternating amber warning lights of types approved by the Superintendent:

1. Vehicles used for the principal purpose of towing or servicing disabled vehicles;
2. Vehicles used in constructing, maintaining, and repairing highways or utilities on or along public highways, *or in assisting with the management of roadside and traffic incidents, or performing traffic management services along public highways*;
3. Vehicles used for the principal purpose of removing hazardous or polluting substances from state waters and drainage areas on or along public highways, or state vehicles used to perform other state-required environmental activities, provided that the amber lights are not lit while the vehicle is in motion;
4. Vehicles used for servicing automatic teller machines, provided the amber lights are not lit while the vehicle is in motion;
5. Vehicles used in refuse collection, provided the amber lights are lit only when the vehicles are engaged in refuse collection operations;
6. Vehicles used by individuals for emergency snow-removal purposes;
7. Hi-rail vehicles, provided the amber lights are lit only when the vehicles are operated on railroad rails;
8. Fire apparatus, ambulances, and rescue and life-saving vehicles, provided the amber lights are used in addition to lights permitted under § [46.2-1023](#) and are so mounted or installed as to be visible from behind the vehicle;
9. Vehicles owned and used by businesses providing security services, provided the amber lights are not lit while the vehicle is being operated on a public highway;
10. Vehicles used to collect and deliver the United States mail, provided the amber lights are lit only when the vehicle is actually engaged in such collection or delivery;
11. Vehicles used to transport petroleum or propane products, provided the amber light is mounted on the rear of the vehicle and is lit when parked while making a delivery of petroleum or propane products, or when the vehicle's

back-up lights are lit and its device producing an audible signal when the vehicle is operated in reverse gear, as provided for in § [46.2-1175.1](#), is in operation;

12. Vehicles used by law-enforcement agency personnel in the enforcement of laws governing motor vehicle parking;

13. Government-owned law-enforcement vehicles, provided the lights are used for the purpose of giving directional warning to vehicular traffic to move one direction or another and are not lit while the vehicle is in motion;

14. Chase vehicles when used to unload a hot air balloon or used to load a hot air balloon after landing, provided the amber lights are not lit while the vehicle is in motion;

15. Vehicles used for farm, agricultural, or horticultural purposes, or any farm tractor;

16. Vehicles owned and used by construction companies operating under Virginia contractors licenses;

17. Vehicles used to lead or provide escorts for bicycle races authorized by the Department of Transportation or the locality in which the race is being conducted;

18. Vehicles used by radio or television stations for remote broadcasts, provided that the amber lights are not lit while the vehicle is in motion;

19. Vehicles used by municipal safety officers in the performance of their official duties. For the purpose of this subdivision, "municipal safety officers" means municipal employees responsible for managing municipal safety programs and ensuring municipal compliance with safety and environmental regulatory mandates;

20. Vehicles used as pace cars, security vehicles, or ~~fire fighting~~ *firefighting* vehicles by any speedway or motor vehicle race track, provided that the amber lights are not lit while the vehicle is being operated on a public highway;

21. Vehicles used in patrol work by members of neighborhood watch groups approved by the chief law-enforcement officer of the locality in their assigned neighborhood watch program area, provided that the vehicles are clearly identified as neighborhood watch vehicles, and the amber lights are not lit while the vehicle is in motion; and

22. Vehicles that are not tow trucks as defined in § [46.2-100](#), but are owned or controlled by a towing and recovery business, provided that the amber lights are lit only when the vehicle is being used at a towing and recovery site.

B. Except as otherwise provided in this section, such amber lights shall be lit only when performing the functions which qualify them to be equipped with such lights.

C. Vehicles used to lead or provide escorts for funeral processions may use either amber warning lights or purple warning lights, but amber warning lights and purple warning lights shall not simultaneously be used on the same vehicle. The Superintendent of State Police shall develop standards and specifications for purple lights authorized in this subsection.

D. Vehicles used by police, ~~fire fighting~~ *firefighting*, or rescue personnel as command centers at the scene of incidents may be equipped with and use green warning lights of a type approved by the Superintendent. Such lights shall not be activated while the vehicle is operating upon the highway.

**HOT lanes; law-enforcement vehicles.** Clarifies the circumstances under which law-enforcement vehicles may use HOT lanes without paying a toll.

### CHAPTER 73

An Act to amend and reenact § [33.2-500](#) of the Code of Virginia, relating to use of HOT lanes by law-enforcement vehicles.

[H 2235]

Approved March 10, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [33.2-500](#) of the Code of Virginia is amended and reenacted as follows:

§ [33.2-500](#). Definitions.

As used in this chapter, unless the context requires a different meaning:

"High-occupancy requirement" means the number of persons required to be traveling in a vehicle for the vehicle to use HOT lanes without the payment of a toll. Emergency vehicles, law-enforcement vehicles ~~using~~ *being used in* HOT lanes in the performance of ~~their~~ *law-enforcement* duties, which shall not include the use of such vehicles for commuting to and from the workplace *or for any purpose other than responding to an emergency incident, patrolling HOT lanes pursuant to an agreement by a state agency with the HOT lanes operator, or the time-sensitive investigation, active surveillance, or actual pursuit of persons known or suspected to be engaged in or with knowledge of criminal activity,* and mass transit vehicles and commuter buses shall meet the high-occupancy requirement for HOT lanes, regardless of the number of occupants in the vehicle.

"High-occupancy toll lanes" or "HOT lanes" means a portion of a highway containing one or more travel lanes separated from other lanes that has an electronic toll collection system, provides for free passage by vehicles that meet the high-occupancy requirement, and contains a photo-enforcement system for use in such electronic toll collection. HOT lanes shall not be a "toll facility" or "HOV lanes" for the purposes of any other provision of law or regulation.

"High-occupancy vehicle lanes" or "HOV lanes" means a portion of a highway containing one or more travel lanes for the travel of high-occupancy vehicles or buses as designated pursuant to § [33.2-320](#).

"HOT lanes operator" means the operator of the facility containing HOT lanes, which may include the Department of Transportation or some other entity.

"Mass transit vehicles" and "commuter buses" means vehicles providing a scheduled transportation service to the general public. Such vehicles shall comprise nonprofit, publicly or privately owned or operated transportation services, programs, or systems that may be funded pursuant to § [58.1-638](#).

"Owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles or with the equivalent agency in another state. "Owner" does not mean a vehicle rental or vehicle leasing company.

"Photo-enforcement system" means a sensor installed in conjunction with a toll collection device to detect the presence of a vehicle that automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of each vehicle's license plate at the time it is detected by the toll collection device.

"Unauthorized vehicle" means a motor vehicle that is restricted from use of the HOT lanes pursuant to subdivision 4a of § [33.2-503](#).

**Antique vehicle exhaust systems.** Exempts an antique motor vehicle manufactured prior to 1950, provided that the engine is comparable to that designed as standard factory equipment for that particular vehicle and that the exhaust system in good working order, from the requirement that motor vehicle exhaust systems "prevent excessive or unusual noise." This bill is identical to [SB 702](#).

#### CHAPTER 165

An Act to amend and reenact § [46.2-1049](#) of the Code of Virginia, relating to antique vehicle exhaust systems; noise.

[H 1551]

Approved March 16, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [46.2-1049](#) of the Code of Virginia is amended and reenacted as follows:

§ [46.2-1049](#). Exhaust system in good working order.

No person shall drive and no owner of a vehicle shall permit or allow the operation of any such vehicle on a highway unless it is equipped with an exhaust system in good working order and in constant operation to prevent excessive or unusual levels of noise; provided however, that for motor vehicles, such exhaust system shall be of a type installed as standard factory equipment, or comparable to that designed for use on the particular vehicle as standard factory equipment. An exhaust system shall not be deemed to prevent excessive or unusual noise if it permits the escape of noise in excess of that permitted by the standard factory equipment exhaust system of private passenger motor vehicles or trucks of standard make.

The term "exhaust system," as used in this section, means all the parts of a vehicle through which the exhaust passes after leaving the engine block, including mufflers and other sound dissipative devices.

Chambered pipes are not an effective muffling device to prevent excessive or unusual noise, and any vehicle equipped with chambered pipes shall be deemed in violation of this section.

The provisions of this section shall not apply to (i) any antique motor vehicle manufactured prior to 1950, provided the engine is comparable to that designed as standard factory equipment for use on that particular vehicle, and the exhaust system is in good working order, or (ii) converted electric vehicles.

**Department of Motor Vehicles; emergency contact program.** Provides that DMV may establish an emergency contact program to allow customers to give DMV the name of an emergency contact person and related emergency contact information, which the customer may update or delete electronically at any time, to be kept in the customer's DMV record and made available to law-enforcement officers in emergency situations. The bill has a delayed effective date of January 1, 2016.

## CHAPTER 162

An Act to amend the Code of Virginia by adding a section numbered [46.2-203.2](#), relating to the Department of Motor Vehicles; emergency contact program.

[H 1392]

Approved March 16, 2015

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered [46.2-203.2](#) as follows:

§ [46.2-203.2](#). *Emergency contact information program.*

A. As used in this section, "emergency contact" means a person 18 years of age or older whom the customer may designate to be contacted by a law-enforcement officer in an emergency situation.

B. The Department may establish an emergency contact information program to assist law-enforcement personnel in emergency situations. To establish such a program, a person who currently holds a learner's permit, temporary driver's license, driver's license, commercial driver's license, or special identification card issued by the Department or completes an application for the same may voluntarily submit emergency contact information for inclusion in his customer record with the Department. Such emergency contact information may include the name, relationship to the customer, address, and telephone number for an individual the customer designates as a contact in the event of an emergency situation.

C. Any person voluntarily submitting emergency contact information to the Department for inclusion in the applicant's customer record is responsible for maintaining current emergency contact information with the Department. Each applicant submitting emergency contact information to the Department shall certify in his application that he has notified the person he has designated as an emergency contact that such information will be supplied to the Department. The Department shall provide a method by which applicants submitting emergency contact information to the Department may submit such information electronically pursuant to § [46.2-216.1](#). Customers may add, modify, or delete information at any time. Such modifications or deletions will overwrite all previously provided information.

D. In the event of an emergency situation, the Department shall make emergency contact information in customer records electronically available to a law-enforcement officer who in the exercise of his official duties requires assistance in reaching a customer's emergency contact. Emergency contact information provided to the Department by the customer shall only be disclosed as permitted in this section and shall not be considered a public record subject to disclosure under the Freedom of Information Act and shall not be subject to disclosure by court order or other means of discovery.

E. In the absence of gross negligence or willful misconduct, the Department, its employees, and law-enforcement officers shall be immune from any civil or criminal liability in connection with the maintenance and use of emergency contact information voluntarily provided by customers for use in an emergency situation.

2. That the provisions of this act shall become effective on January 1, 2016.

**Overheight vehicles on the Hampton Roads Bridge Tunnel.** Exempts from penalties applicable to overheight vehicles the driver of any vehicle exceeding the prescribed maximum height who is attempting to drive through the westbound tunnel of the Hampton Roads Bridge Tunnel and who elects to wait until the end of peak traffic periods so that the Department of Transportation or State Police may safely stop traffic and allow the vehicle to proceed in the opposite direction.

## CHAPTER 181

An Act to amend and reenact § [46.2-1110](#) of the Code of Virginia, relating to penalties for overheight vehicles.

[S 956]

Approved March 16, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [46.2-1110](#) of the Code of Virginia is amended and reenacted as follows:

§ [46.2-1110](#). Height of vehicles; damage to overhead obstruction; penalty.

No loaded or unloaded vehicle shall exceed a height of 13 feet, six inches.

Nothing contained in this section shall require either the public authorities or railroad companies to provide vertical clearances of overhead bridges or structures in excess of 12 feet, six inches, or to make any changes in the vertical clearances of existing overhead bridges or structures crossing highways. The driver or owner of vehicles on highways shall be held financially responsible for any damage to overhead bridges or structures that results from collisions therewith.

The driver or owner of any vehicle colliding with an overhead bridge or structure shall immediately notify, either in person or by telephone, a law-enforcement officer or the public authority or railroad company, owning or maintaining such overhead bridge or structure of the fact of such collision, and his name, address, driver's license number, and the registration number of his vehicle. Failure to give such notice immediately, either in person or by telephone, shall constitute a Class 1 misdemeanor.

On any highway maintained by the ~~Virginia~~ Department of Transportation over which there is a bridge or structure having a vertical clearance of less than 14 feet, the Commissioner of Highways shall have at least two signs erected setting forth the height of the bridge or structure. Such signs shall be located at least 1,500 feet ahead of the bridge or structure.

On any highway maintained by a county, city, or town over which a bridge or structure has a vertical clearance of less than 14 feet, the local governing body shall have at least two signs erected setting forth the height of the bridge or structure. Such signs shall be located at least 1,500 feet ahead of the bridge or structure.

The ~~Virginia~~ Department of Transportation may install and use overheight vehicle optical detection systems to identify vehicles that exceed the overhead clearance of the westbound tunnel of the Hampton Roads Bridge Tunnel on Interstate ~~Route~~ 64. When the optical system sensor located closest to the westbound tunnel entrance is used in identifying such vehicles, the system shall be installed at the specified height as determined by measurement standards that have been certified by the Commissioner of the ~~Virginia~~ Department of Agriculture and Consumer Services, and are traceable to national standards of measurement. Such identification by such system shall, for all purposes of law, be equivalent to having measured the height of the vehicle with a tape measure or other measuring device. *When an employee of the Department of Transportation or the Department of State Police identifies a vehicle whose height exceeds 13 feet, six inches and whose driver is driving or attempting to drive through the westbound tunnel of the Hampton Roads Bridge Tunnel on Interstate 64, the driver of such vehicle may elect to wait until the end of peak traffic periods, as determined by the Department of Transportation, so that the Department of Transportation or Department of State Police may safely stop traffic and allow such vehicle to proceed in the opposite direction. If the driver does not elect to wait, he shall be subject to the penalties under this section.*

Any person who drives or attempts to drive any vehicle or combination of vehicles into or through any tunnel when the height of such vehicle, any vehicle in a combination of vehicles, or any load on any such vehicle exceeds that permitted for such tunnel, shall be guilty of a misdemeanor and, in addition, shall be assessed three driver demerit points. In addition, the driver of any such vehicle shall be fined \$1,000, of which \$1,000 shall be a mandatory minimum. For subsequent offenses, the owner of any such vehicle shall be fined \$2,500, of which \$2,500 shall be a mandatory minimum.

A violation of this section shall be deemed for all purposes a moving violation.

**Overtaking stationary mail vehicles; reduce speed.** Requires the driver of any motor vehicle overtaking a stationary vehicle used to collect or deliver the United States mail that is displaying a flashing, blinking, or alternating amber light to proceed with due caution and maintain a safe speed.

**CHAPTER 189**

*An Act to amend and reenact § [46.2-838](#) of the Code of Virginia, relating to passing when overtaking a stationary mail vehicle.*

[H 1379]

Approved March 16, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [46.2-838](#) of the Code of Virginia is amended and reenacted as follows:

§ [46.2-838](#). Passing when overtaking a vehicle.

A. The driver of any vehicle overtaking another vehicle proceeding in the same direction shall pass at least two feet to the left of the overtaken vehicle and shall not again drive to the right side of the highway until safely clear of such overtaken vehicle, except as otherwise provided in this article.

B. *The driver of any motor vehicle, upon overtaking a stationary vehicle that is displaying a flashing, blinking, or alternating amber light as provided in § [46.2-892](#) or subdivision A 10 of § [46.2-1025](#), shall proceed with due caution and maintain a safe speed for highway conditions.*

**Passing stationary refuse collection vehicles.** Requires that, with due regard to safety and traffic conditions, drivers of motor vehicles overtaking stationary vehicles in the process of refuse collection (i) on a highway of at least four lanes, yield the right of way by a making a lane change into a nonadjacent lane or (ii) on a highway of fewer than four lanes or if changing lanes would be unreasonable or unsafe, decrease speed to 10 mph below the posted speed limit and pass at least two feet to the left of the stationary vehicle.

**CHAPTER 197**

*An Act to amend and reenact § [46.2-838](#) of the Code of Virginia, relating to passing when overtaking a stationary refuse-collection vehicle.*

[H 1649]

Approved March 16, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [46.2-838](#) of the Code of Virginia is amended and reenacted as follows:

§ [46.2-838](#). Passing when overtaking a vehicle.

A. The driver of any vehicle overtaking another vehicle proceeding in the same direction shall pass at least two feet to the left of the overtaken vehicle and shall not again drive to the right side of the highway until safely clear of such overtaken vehicle, except as otherwise provided in this article.

*B. The driver of any motor vehicle, upon overtaking a stationary vehicle in the process of refuse collection operations, shall (i) on a highway having at least four lanes, at least two of which are intended for traffic proceeding in the same direction as the approaching vehicle, proceed with caution and, if reasonable, with due regard for safety and traffic conditions, yield the right-of-way by making a lane change into a lane not adjacent to the stationary vehicle or (ii) if changing lanes would be unreasonable or unsafe or on highways having fewer than four lanes, proceed with due caution and decrease speed to 10 miles per hour below the posted speed limit and pass at least two feet to the left of the vehicle.*

**Brake lights on motorcycles and autocyces.** Repeals the five-second maximum duration of increased brightness of motorcycle and autocyce brake lights when the vehicle's brakes are applied.

**CHAPTER 405**

*An Act to amend and reenact § [46.2-1012](#) of the Code of Virginia, relating to brake lights on motorcycles and autocyces.*

[H 1700]

Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [46.2-1012](#) of the Code of Virginia is amended and reenacted as follows:

§ [46.2-1012](#). Headlights, auxiliary headlights, tail lights, brake lights, and illumination of license plates on motorcycles or autocyces.

Every motorcycle or autocyce shall be equipped with at least one headlight which shall be of a type that has been approved by the Superintendent and shall be capable of projecting sufficient light to the front of such motorcycle or autocyce to render discernible a person or object at a distance of 200 feet. However, the lights shall not project a glaring or dazzling light to persons approaching such motorcycles or autocyces. In addition, each motorcycle or autocyce may be equipped with not more than two auxiliary headlights of a type approved by the Superintendent.

Motorcycles or autocyces may be equipped with means of modulating the high beam of their headlights between high and low beam at a rate of 200 to 280 flashes per minute. Such headlights shall not be so modulated during periods when headlights would ordinarily be required to be lighted under § [46.2-1030](#).

Every motorcycle or autocyce registered in the Commonwealth and operated on the highways of the Commonwealth shall be equipped with at least one brake light of a type approved by the Superintendent. Motorcycles or autocyces may be equipped with one or more auxiliary brake lights of a type approved by the Superintendent. The Superintendent may by regulation prescribe or limit the size, number, location, and configuration of such auxiliary brake lights.

Every motorcycle or autocyce shall carry at the rear at least one or more red lights plainly visible in clear weather from a distance of 500 feet to the rear of such vehicle. Such tail lights shall be constructed and so mounted in their relation to the rear license plate as to illuminate the license plate with a white light so that the same may be read from a distance of 50 feet to the rear of such vehicle. Alternatively, a separate white light shall be so mounted as to illuminate the rear license plate from a distance of 50 feet to the rear of such vehicle. Any such tail lights or special white light shall be of a type approved by the Superintendent.

Motorcycles or autocyces may be equipped with a means of varying the brightness of the vehicle's brake light for a duration of not more than five seconds upon application of the vehicle's brakes.

**Towing vehicles with occupants.** Prohibits tow truck drivers and towing and recovery operators from knowingly towing a motor vehicle with occupants.

**CHAPTER 217**

*An Act to amend and reenact § [46.2-118](#) of the Code of Virginia, relating to towing vehicles with occupants.*

[S 793]

Approved March 16, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [46.2-118](#) of the Code of Virginia is amended and reenacted as follows:

§ [46.2-118](#). Prohibited acts by tow truck drivers and towing and recovery operators.

A. No tow truck driver shall:

1. Use fraud or deceit in the offering or delivering of towing and recovery services;
2. Conduct his business or offer services in such a manner as to endanger the health and welfare of the public;
3. Use alcohol or drugs to the extent such use renders him unsafe to provide towing and recovery services;
4. Obtain any fee by fraud or misrepresentation;
5. Remove or tow a trespassing vehicle, as provided in § [46.2-1231](#), or a vehicle towed or removed at the request of a law-enforcement officer to any location outside the Commonwealth; or
6. Violate, or assist, induce, or cooperate with others to violate, any provision of law related to the offering or delivery of towing and recovery services.

B. No towing and recovery operator shall:

1. Use fraud or deceit in the offering or delivering of towing and recovery services;
2. Conduct his business or offer services in such a manner as to endanger the health and welfare of the public;
3. Use alcohol or drugs to the extent such use renders him unsafe to provide towing and recovery services;
4. Neglect to maintain on record at the towing and recovery operator's principal office a list of all drivers employed by the towing and recovery operator;
5. Obtain any fee by fraud or misrepresentation;
6. Advertise services in any manner that deceives, misleads, or defrauds the public;
7. Advertise or offer services under a name other than one's own name;
8. Fail to accept for payment cash, insurance company check, certified check, money order, or at least one of two commonly used, nationally recognized credit cards, except those towing and recovery operators who have an annual gross income of less than \$10,000 derived from the performance of towing and recovery services shall not be

required to accept credit cards, other than when providing police-requested towing as defined in § [46.2-1217](#), but shall be required to accept personal checks;

9. Fail to display at the towing and recovery operator's principal office in a conspicuous place a listing of all towing, recovery, and processing fees for vehicles;

10. Fail to have readily available at the towing and recovery operator's principal office, at the customer's request, the maximum fees normally charged by the towing and recovery operator for basic services for towing and initial hookup of vehicles;

11. Knowingly charge excessive fees for towing, storage, or administrative services or charge fees for services not rendered;

12. Fail to maintain all towing records, which shall include itemized fees, for a period of one year from the date of service;

13. Willfully invoice payment for any services not stipulated or otherwise incorporated in a contract for services rendered between the towing and recovery operator and any locality or political subdivision of the Commonwealth;

14. Employ a driver required to register as a sex offender as provided in § [9.1-901](#);

15. Remove or tow a trespassing vehicle, as provided in § [46.2-1231](#), or a vehicle towed or removed at the request of a law-enforcement officer to any location outside the Commonwealth;

16. Refuse, at the towing and recovery operator's place of business, to make change, up to \$100, for the owner of the vehicle towed without the owner's consent if the owner pays in cash for charges for towing and storage of the vehicle;

17. Violate, or assist, induce, or cooperate with others to violate, any provision of law related to the offering or delivery of towing and recovery services; or

18. Fail to provide the owner of a stolen vehicle written notice of his right under law to be reimbursed for towing and storage of his vehicle out of the state treasury from the appropriation for criminal charges as required in § [46.2-1209](#).

*C. No tow truck driver as defined in § [46.2-116](#) or towing and recovery operator as defined in § [46.2-100](#) shall knowingly permit another person to occupy a motor vehicle as defined in § [46.2-100](#) while such motor vehicle is being towed.*

**Riding on motorcycles.** Allows a operator of a motorcycle to stand on the footpegs, for no longer than is necessary, when dictated by safety concerns.

**CHAPTER 218**

*An Act to amend and reenact § [46.2-909](#) of the Code of Virginia, relating to standing while riding a motorcycle.*

[S 836]

Approved March 16, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [46.2-909](#) of the Code of Virginia is amended and reenacted as follows:

§ [46.2-909](#). Riding on motorcycles, generally.

Every person operating a motorcycle, as defined in § [46.2-100](#), excluding three-wheeled vehicles, shall ride only upon the permanent seat attached to the motorcycle, ~~and such~~ *unless safety dictates standing on both footpegs for no longer than is necessary. Such* operator shall not carry any other person. ~~No other person shall ride on a motorcycle,~~ unless the motorcycle is designed to carry more than one person, in which event a passenger may ride on the permanent seat if designed for two persons, or on another seat firmly attached to the rear or side of the seat for the operator. If the motorcycle is designed to carry more than one person, it shall also be equipped with a footrest for the use of such passenger.

**Commercial motor carriers.** Amends several motor carrier and commercial drivers' licensing laws, bringing Virginia into compliance with Federal Motor Carrier Safety Regulations amendments regarding commercial motor vehicles and exemptions regarding certain farm vehicles and their drivers. The bill lowers the age of eligibility for an escort vehicle driver certification from 21 to 18 years. The bill also authorizes two additional circumstances in which law enforcement may remove for-hire license plates: where the carrier's operating authority has expired and where the plates are being used on a leased vehicle, and the bill makes all license plate removal optional at the discretion of the law-enforcement officer.

#### CHAPTER 258

An Act to amend and reenact §§ [46.2-324.1](#), [46.2-341.4](#), [46.2-341.7](#), [46.2-341.8](#), [46.2-341.9](#), [46.2-341.10](#), [46.2-341.12](#), [46.2-341.14](#), [46.2-341.14:1](#), [46.2-341.15](#), [46.2-341.16](#), [46.2-341.18:3](#), [46.2-341.20](#), [46.2-341.20:4](#), [46.2-348](#), [46.2-2011.29](#), [46.2-2139](#), [46.2-2900](#), [46.2-2906](#), [46.2-2907](#), and [52-8.4](#) of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 6 of Title 46.2 sections numbered [46.2-649.3](#) and [46.2-649.4](#), relating to commercial motor vehicle operators.

[H 2038]

Approved March 17, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ [46.2-324.1](#), [46.2-341.4](#), [46.2-341.7](#), [46.2-341.8](#), [46.2-341.9](#), [46.2-341.10](#), [46.2-341.12](#), [46.2-341.14](#), [46.2-341.14:1](#), [46.2-341.15](#), [46.2-341.16](#), [46.2-341.18:3](#), [46.2-341.20](#), [46.2-341.20:4](#), [46.2-348](#), [46.2-2011.29](#), [46.2-2139](#), [46.2-2900](#), [46.2-2906](#), [46.2-2907](#), and [52-8.4](#) of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 6 of Title 46.2 sections numbered [46.2-649.3](#) and [46.2-649.4](#) as follows:

§ [46.2-324.1](#). Requirements for initial licensure of certain applicants.

A. No driver's license shall be issued to any applicant unless he either (i) provides written evidence of having satisfactorily completed a course of driver instruction at a driver training school licensed under Chapter 17 (§ [46.2-1700](#) et seq.) or a comparable course approved by the Department or Department of Education or (ii) has held a learner's permit issued by the Department for at least 60 days prior to his first behind-the-wheel examination by the Department when applying for a noncommercial driver's license.

The provisions of this section shall only apply to persons who are at least 19 years old and who either (a) have never held a driver's license issued by Virginia or any other state or territory of the United States or foreign country or (b) have never been licensed or held the license endorsement or classification required to operate the type of vehicle which they now propose to operate. Completion of a course of driver instruction approved by the Department or the Department of Education at a driver training school may include the final behind-the-wheel examination for a driver's license; however, a driver training school shall not administer the behind-the-wheel examination to any applicant who is under medical control pursuant to § [46.2-322](#). Applicants completing a course of driver instruction approved by the Department or the Department of Education at a driver training school retain the option of having the behind-the-wheel examination administered by the Department.

B. No commercial driver's license shall be issued to any applicant unless he is 18 years old or older and has complied with the requirements of *subsection A* of § [46.2-341.9](#). Applicants for a commercial driver's license who have never before held a commercial driver's license shall apply for a commercial ~~driver's instruction~~ learner's permit and either (i) provide written evidence of having satisfactorily completed a course of driver instruction at a driver training school licensed under Chapter 17 (§ [46.2-1700](#) et seq.) or a comparable course approved by the Department or Department of Education and hold the commercial ~~driver's instruction~~ learner's permit for a minimum of 14 days prior to taking the behind-the-wheel examination for the commercial driver's license or (ii) hold the commercial ~~driver's instruction~~ learner's permit for a minimum of 30 days before taking the behind-the-wheel examination for the commercial driver's license.

Holders of a commercial driver's license who have never held the license endorsement or classification required to operate the type of commercial motor vehicle which they now propose to operate must apply for a commercial ~~driver's instruction~~ learner's permit if the upgrade requires a skills test and hold the permit for a minimum of 14 days prior to taking the behind-the-wheel examination for the commercial driver's license.

C. Nothing in this section shall be construed to prohibit the Department from requiring any person to complete the skills examination as prescribed in § [46.2-325](#) and the written or automated examinations as prescribed in § [46.2-335](#).

*D. Notwithstanding the provisions of subsection B, applicants for a commercial driver's license who have never before held a commercial driver's license who are members of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary and provide written evidence of having satisfactorily completed a military commercial driver training program shall hold the commercial learner's permit for a minimum of 14 days prior to taking the behind-the-wheel examination for the commercial driver's license.*

*E. Notwithstanding the provisions of subsection B, applicants for a commercial driver's license who have never before held a commercial driver's license who are employed by a public school division as a bus driver and provide written evidence of having satisfactorily completed a commercial driver training program with a public school division shall hold the commercial learner's permit for a minimum of 14 days prior to taking the behind-the-wheel examination for the commercial driver's license.*

§ [46.2-341.4](#). Definitions.

The following definitions shall apply to this article, unless a different meaning is clearly required by the context:

"Air brake" means any braking system operating fully or partially on the air brake principle.

"Applicant" means an individual who applies to obtain, transfer, upgrade, or renew a commercial driver's license or to obtain or renew a commercial ~~driver's instruction~~ learner's permit.

"Automatic transmission" means, for the purposes of the skills test and the restriction, any transmission other than a manual transmission.

"CDLIS driver record" means the electronic record of the individual commercial driver's status and history stored by the State of Record as part of the Commercial Driver's License Information System (CDLIS).

~~"Commercial driver's instruction permit" means a permit issued to an individual in accordance with the provisions of this article, or if issued by another state, a permit issued in accordance with the standards contained in the Federal Motor Carrier Safety Regulations, which, when carried with a valid driver's license issued by the same state or jurisdiction, authorizes the individual to operate a class of commercial motor vehicle when accompanied by a holder of a valid commercial driver's license for purposes of behind the wheel training. When issued to a commercial driver's license holder, a commercial driver's instruction permit serves as authorization for accompanied behind the wheel training in a commercial motor vehicle for which the holder's current commercial driver's license is not valid. For purposes of this article "Commercial driver's instruction permit" shall have the same meaning as "Commercial learner's permit (CLP)" in 49 C.F.R. § 383.5 of the Federal Motor Carrier Safety regulations.~~

"Commercial driver's license" means any driver's license issued to a person in accordance with the provisions of this article, or if the license is issued by another state, any license issued to a person in accordance with the federal Commercial Motor Vehicle Safety Act, which authorizes such person to drive a commercial motor vehicle of the class and type and with the restrictions indicated on the license.

"Commercial driver's license information system" (CDLIS) means the CDLIS established by the Federal Motor Carrier Safety Administration pursuant to § 12007 of the Commercial Motor Vehicle Safety Act of 1986.

*"Commercial learner's permit" means a permit issued to an individual in accordance with the provisions of this article or, if issued by another state, a permit issued in accordance with the standards contained in the Federal Motor Carrier Safety Regulations, which, when carried with a valid driver's license issued by the same state or jurisdiction, authorizes the individual to operate a class of commercial motor vehicle when accompanied by a holder of a valid commercial driver's license for purposes of behind-the-wheel training. When issued to a commercial driver's license holder, a commercial learner's permit serves as authorization for accompanied behind-the-wheel training in a commercial motor vehicle for which the holder's current commercial driver's license is not valid.*

"Commercial motor vehicle" means, except for those vehicles specifically excluded in this definition, every motor vehicle, vehicle or combination of vehicles used to transport passengers or property which either: (i) has a gross vehicle weight rating of 26,001 or more pounds; or (ii) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed vehicle with a gross vehicle weight rating of more than 10,000 pounds; or (iii) is designed to transport 16 or more passengers including the driver; or (iv) is of any size and is used in the transportation of hazardous materials as defined in this section. Every such motor vehicle or combination of vehicles shall be considered a commercial motor vehicle whether or not it is used in a commercial or profit-making activity.

The following shall be excluded from the definition of commercial motor vehicle: any vehicle when used by an individual solely for his own personal purposes, such as personal recreational activities; or any vehicle which (i) is controlled and operated by a farmer, whether or not it is owned by the farmer, and which is used exclusively for farm use, as defined provided in §§ [46.2-649.3](#) and [46.2-698](#), (ii) is used to transport either agricultural products, farm machinery or farm supplies to or from a farm, (iii) is not used in the operation of a common or contract motor carrier, and (iv) is used within 150 miles of the farmer's farm; or any vehicle operated for military purposes by (a) active duty military personnel, (b) members of the military reserves, (c) members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms), but not U.S. Reserve technicians, and (d) active duty U.S. Coast Guard personnel; or emergency equipment operated by a member of a firefighting, rescue, or emergency entity in the performance of his official duties.

"Commercial Motor Vehicle Safety Act" means the federal Commercial Motor Vehicle Safety Act of 1986, Title XII of Public Law [99-570](#), as amended.

"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction, an unvacated forfeiture of bond, bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court costs in lieu of trial, a violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or probated, or, for the purposes of alcohol or drug-related offenses involving the operation of a motor vehicle, a civil or an administrative determination of a violation. For the purposes of this definition, an administrative determination shall include an unvacated certification or finding by an administrative or authorized law-enforcement official that a person has violated a provision of law.

"Disqualification" means a prohibition against driving, operating or being in physical control of a commercial motor vehicle for a specified period of time, imposed by a court or a magistrate, or by an authorized administrative or law-enforcement official or body.

"Domicile" means a person's true, fixed and permanent home and principal residence, to which he intends to return whenever he is absent.

"Employee" means a payroll employee or person employed under lease or contract, or a person who has applied for employment and whose employment is contingent upon obtaining a commercial driver's license.

"Employer" means a person who owns or leases commercial motor vehicles and assigns employees to drive such vehicles.

"Endorsement" means an authorization to an individual's commercial driver's license or commercial ~~driver's instruction~~ learner's permit required to permit the individual to operate certain types of commercial motor vehicles.

"FMCSA" means the Federal Motor Carrier Safety Administration.

"Full air brake" means any braking system operating fully on the air brake principle.

"Gross combination weight rating" means the value specified by the manufacturers of an articulated vehicle or combination of vehicles as the maximum loaded weight of such vehicles. In the absence of such a value specified by the manufacturer, for law-enforcement purposes, the gross combination weight rating shall be the greater of (i) the gross vehicle weight rating of the power units of the combination vehicle plus the total weight of the towed units, including any loads thereon, or (ii) the gross weight at which the articulated vehicle or combination of vehicles is registered in its state of registration; however, the registered gross weight shall not be applicable for determining the classification of an articulated vehicle or combination of vehicles for purposes of skills testing pursuant to § [46.2-341.14](#) or [46.2-341.16](#).

"Gross vehicle weight rating" means the value specified by the manufacturer of the vehicle as the maximum loaded weight of a single vehicle. In the absence of such a value specified by the manufacturer, for law-enforcement purposes, the gross vehicle weight rating shall be the greater of (i) the actual gross weight of the vehicle, including any load thereon; or (ii) the gross weight at which the vehicle is registered in its state of registration; however, the registered gross weight of the vehicle shall not be applicable for determining the classification of a vehicle for purposes of skills testing pursuant to § [46.2-341.14](#) or [46.2-341.16](#).

"Hazardous materials" means materials designated to be hazardous in accordance with § 103 of the federal Hazardous Materials Transportation Act, as amended, (49 U.S.C. § 5101 et seq.) and which require placarding when transported by motor vehicle as provided in the federal Hazardous Materials Regulations (49 C.F.R. Part 172, Subpart F); it also includes any quantity of any material listed as a select agent or toxin in federal Public Health Service Regulations at 42 C.F.R. Part 73.

"Manual transmission" (also known as a stick shift, stick, straight drive, or standard transmission) means a transmission utilizing a driver-operated clutch that is activated by a pedal or lever and a gear-shift mechanism operated by either hand or foot.

"Non-commercial driver's license" means any other type of motor vehicle license, such as an automobile driver's license, a chauffeur's license, or a motorcycle license.

*"Nondomiciled commercial learner's permit" or "nondomiciled commercial driver's license" means a commercial learner's permit or commercial driver's license, respectively, issued to a person in accordance with the provisions of this article or, if issued by another state, under either of the following two conditions: (i) to an individual domiciled in a foreign jurisdiction that does not test drivers and issue commercial driver's licenses in accordance with, or under standards similar to, the standards contained in subparts F, G, and H of Part 383 of the Federal Motor Carrier Safety Regulations or (ii) to an individual domiciled in another state while that state is prohibited from issuing commercial driver's licenses in accordance with decertification requirements of 49 C.F.R. § 384.405.*

"Out-of-service order" or "out-of-service declaration" means an order by a judicial officer pursuant to § [46.2-341.26:2](#) or [46.2-341.26:3](#) or an order or declaration by an authorized law-enforcement officer under § [46.2-1001](#) or regulations promulgated pursuant to § [52-8.4](#) relating to Motor Carrier Safety, and including similar actions by authorized judicial officers or enforcement officers acting pursuant to similar laws of other states, the United States, the Canadian Provinces, Canada, Mexico, and localities within them, and also including actions by federal or other jurisdictions' officers pursuant to ~~federal~~ Federal Motor Carrier Safety Regulations, that a driver, a commercial motor vehicle, or a motor carrier is out of service. Such order or declaration as to a driver means that the driver is prohibited from operating a commercial motor vehicle for the duration of the out-of-service period. Such order or declaration as to a vehicle means that such vehicle cannot be operated until the hazardous condition that resulted in the order or declaration has been removed and the vehicle has been cleared for further operation. Such order or declaration as to a motor carrier means that no vehicle may be operated for or on behalf of such carrier until the out-

of-service order or declaration has been lifted. For purposes of this article, the provisions of the ~~federal~~ *Federal* Motor Carrier Safety Regulations (49 C.F.R. Parts 390 through 397), including such regulations or any substantially similar regulations as may have been adopted by any state of the United States, the Provinces of Canada, Canada, Mexico, or any locality shall be considered laws similar to the Virginia laws referenced herein.

"Person" means a natural person, firm, partnership, association, corporation, or a governmental entity including a school board.

"Restriction" means a prohibition on a commercial driver's license or commercial ~~driver's instruction~~ *learner's* permit that prohibits the holder from operating certain commercial motor vehicles.

"Seasonal restricted commercial driver's license" means a commercial driver's license issued, under the authority of the waiver promulgated by the federal Department of Transportation (49 C.F.R. § 383.3) by Virginia or any other jurisdiction, to an individual who has not passed the knowledge or skills tests required of other commercial driver's license holders. This license authorizes operation of a commercial motor vehicle only on a seasonal basis, stated on the license, by a seasonal employee of a farm service business, within 150 miles of the place of business or the farm currently being served.

"State" means one of the 50 states of the United States or the District of Columbia.

"Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than 119 gallons and an aggregate rated capacity of 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 49 C.F.R. Part 171. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons as provided in 49 C.F.R. Part 383. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of 1,000 gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.

"Third party examiner" means an individual who is an employee of a third party tester and who is certified by the Department to administer tests required for a commercial driver's license.

"Third party tester" means a person (including, but not limited to, another state, a motor carrier, a private institution, the military, or a department, agency, or instrumentality of a local government) certified by the Department to employ third party examiners to administer a test program for testing commercial driver's license applicants in accordance with this article.

"VAMCSR" means the Virginia Motor Carrier Safety Regulations (19VAC30-20) adopted by the Department of State Police pursuant to § 52-8.4.

§ 46.2-341.7. Commercial driver's license required; penalty.

A. No person shall drive a commercial motor vehicle in the Commonwealth unless he has been issued a commercial driver's license or commercial ~~driver's instruction~~ *learner's* permit and unless such license or permit authorizes the operation of the type and class of vehicle so driven, and unless such license or permit is valid.

B. Every driver of a commercial motor vehicle, while driving such vehicle in the Commonwealth, shall have in his immediate possession the commercial driver's license or commercial ~~driver's instruction~~ *learner's* permit authorizing the operation of such vehicle and shall make it available to any law-enforcement officer upon request. Failure to comply with this subsection shall be punishable as provided in § 46.2-104.

C. No person shall drive a commercial vehicle in Virginia in violation of any of the restrictions or limitations stated on his commercial driver's license or commercial ~~driver's instruction~~ *learner's* permit. A violation of the subsection shall constitute a Class 2 misdemeanor.

§ [46.2-341.8](#). Nonresidents and new residents.

A. Any person who is not domiciled in the Commonwealth, who has been duly issued a commercial driver's license or commercial ~~driver's instruction~~ learner's permit by his state of domicile, who has such license or permit in his immediate possession, whose privilege or license to drive any motor vehicle is not suspended, revoked, or cancelled, and who has not been disqualified from driving a commercial motor vehicle, shall be permitted without further examination or licensure by the Commonwealth, to drive a commercial motor vehicle in the Commonwealth.

Within 30 days after becoming domiciled in this Commonwealth, any person who has been issued a commercial driver's license by another state and who intends to drive a commercial motor vehicle shall apply to the Department for a Virginia commercial driver's license. If the Commissioner determines that such applicant is otherwise eligible for a commercial driver's license, the Department will issue him a Virginia commercial driver's license with the same classification and endorsements as his commercial driver's license from another state, without requiring him to take the knowledge or skills test required for such commercial driver's license in accordance with § [46.2-330](#). However, any such applicant seeking to transfer his commercial driver's license and to retain a hazardous materials endorsement shall have, within the two-year period preceding his application for a Virginia commercial driver's license, either (i) passed the required test for such endorsement specified in 49 C.F.R. § 383.121 or (ii) successfully completed a hazardous materials test or training that is given by a third party and that is deemed to substantially cover the same knowledge base as described in 49 C.F.R. § 383.121.

B. Any person who is (i) domiciled in a foreign jurisdiction that does not test drivers and issue commercial driver's licenses in accordance with, or under standards similar to, the standards contained in subparts F, G, and H of Part 383 of the Federal Motor Carrier Safety Regulations or (ii) domiciled in another state while that state is prohibited from issuing commercial driver's licenses in accordance with decertification requirements of 49 C.F.R. § 384.405 may apply to the Department for a nondomiciled commercial learner's permit or nondomiciled commercial driver's license.

*An applicant for a nondomiciled commercial learner's permit or nondomiciled commercial driver's license shall be required to meet all requirements for a commercial learner's permit or commercial driver's license, respectively.*

*An applicant domiciled in a foreign jurisdiction shall provide an unexpired employment authorization document (EAD) issued by the U.S. Citizenship and Immigration Services (USCIS) or an unexpired foreign passport accompanied by an approved Form I-94 documenting the applicant's most recent admittance into the United States.*

*An applicant for a nondomiciled commercial driver's license or nondomiciled commercial learner's permit shall not be required to surrender his foreign license.*

*After receipt of a nondomiciled commercial driver's license or nondomiciled commercial learner's permit and for as long as it is valid, holders of such licenses or permits shall be required to notify the Department of any adverse action taken by any jurisdiction or governmental agency, foreign or domestic, against his driving privileges. Such notification shall be made before the end of the business day following the day the driver receives notice of the suspension, revocation, cancellation, lost privilege, or disqualification.*

§ [46.2-341.9](#). Eligibility for commercial driver's license or commercial learner's permit.

A. A Virginia commercial driver's license or commercial ~~driver's instruction~~ learner's permit shall be issued only to a person who drives or intends to drive a commercial motor vehicle ~~and, who is domiciled in the Commonwealth, provided that any person who is domiciled in a jurisdiction outside the United States, but has resided in the Commonwealth for a period of six weeks, shall be~~ and who is eligible for a commercial driver's license or commercial ~~driver's instruction~~ learner's permit under such terms and conditions as the Department may require.

No person shall be eligible for a Virginia commercial driver's license or commercial ~~driver's instruction~~ learner's permit until he has applied for such license or permit and has passed the applicable vision, knowledge and skills tests required by this article, and has satisfied all other applicable licensing requirements imposed by the laws of the

Commonwealth. Such requirements shall include meeting the standards contained in subparts F, G, and H, of Part 383 of the FMCSA regulations.

No person shall be eligible for a Virginia commercial driver's license or commercial ~~driver's instruction~~ learner's permit during any period in which he is disqualified from driving a commercial motor vehicle, or his driver's license or privilege to drive is suspended, revoked or cancelled in any state, or during any period wherein the restoration of his license or privilege is contingent upon the furnishing of proof of financial responsibility.

No person shall be eligible for a Virginia commercial driver's license until he surrenders all other driver's licenses issued to him by any state.

No person shall be eligible for a Virginia commercial ~~driver's instruction~~ learner's permit until he surrenders all other driver's licenses and permits issued to him by any other state. The applicant for a commercial ~~driver's instruction~~ learner's permit is not required to surrender his Virginia noncommercial driver's license.

No person under the age of 21 years shall be eligible for a commercial driver's license, except that a person who is at least 18 years of age may be issued a commercial driver's license or commercial ~~driver's instruction~~ learner's permit, provided that such person is exempt from or is not subject to the age requirements of the Federal Motor Carrier Safety Regulations contained in 49 C.F.R. Part 391, and is not prohibited from operating a commercial motor vehicle by the Virginia Motor Carrier Safety Regulations, and has so certified. No person under the age of 21 years shall be issued a hazardous materials endorsement.

No person shall be eligible for a Virginia commercial driver's license to drive a Type S vehicle, as defined in subsection B of § [46.2-341.16](#), during any period in which he is a person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ [9.1-900](#) et seq.) of Title 9.1.

In determining the eligibility of any applicant for a Virginia commercial driver's license, the Department shall consider, to the extent not inconsistent with federal law, the applicant's military training and experience.

A person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ [9.1-900](#) et seq.) of Title 9.1 may be issued a Virginia commercial driver's license to drive a Type P vehicle, as defined in subsection B of § [46.2-341.16](#), provided the commercial driver's license includes a restriction prohibiting the license holder from operating a commercial vehicle to transport children to or from activities sponsored by a school or by a child day care facility licensed, regulated, or approved by the Virginia Department of Social Services.

*B. Notwithstanding the provisions of subsection A, pursuant to 49 U.S.C. 31311(a)(12) a commercial driver's license or commercial learner's permit may be issued to an individual who (i) operates or will operate a commercial motor vehicle; (ii) is a member of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary; and (iii) is not domiciled in the Commonwealth, but whose temporary or permanent duty station is located in the Commonwealth.*

§ [46.2-341.10](#). Special provisions relating to commercial learner's permit.

A. The Department, upon receiving an application on forms prescribed by the Commissioner and upon the applicant's satisfactory completion of the vision and knowledge tests required for the class and type of commercial motor vehicle to be driven by the applicant may, in its discretion, issue to such applicant a commercial ~~driver's instruction~~ learner's permit. Such permit shall be valid for no more than 180 days from the date of issuance. The Department may renew the commercial ~~driver's instruction~~ learner's permit for an additional 180 days without requiring the commercial ~~driver's instruction~~ learner's permit holder to retake the general and endorsement knowledge tests. No additional renewals are permitted. A commercial ~~driver's instruction~~ learner's permit shall entitle the applicant to drive a commercial motor vehicle of the class and type designated on the permit, but only when accompanied by a person licensed to drive the class and type of commercial motor vehicle driven by the

applicant. The person accompanying the permit holder shall occupy the seat closest to the driver's seat for the purpose of giving instruction to the permit holder in driving the commercial motor vehicle.

B. No person shall be issued a commercial ~~driver's instruction~~ *learner's* permit unless he possesses a valid Virginia driver's license or has satisfied all the requirements necessary to obtain such a license.

C. A commercial ~~driver's instruction~~ *learner's* permit holder with a passenger (P) endorsement (i) must have taken and passed the P endorsement knowledge test and (ii) is prohibited from operating a commercial motor vehicle carrying passengers, other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the commercial ~~driver's instruction~~ *learner's* permit holder. The P endorsement must be class specific.

D. A commercial ~~driver's instruction~~ *learner's* permit holder with a school bus (S) endorsement (i) must have taken and passed the S endorsement knowledge test and (ii) is prohibited from operating a school bus with passengers other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the commercial ~~driver's instruction~~ *learner's* permit holder. No person shall be issued a commercial ~~driver's instruction~~ *learner's* permit to drive school buses or to drive any commercial vehicle to transport children to or from activities sponsored by a school or by a child day care facility licensed, regulated, or approved by the Virginia Department of Social Services during any period in which he is a person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ [9.1-900](#) et seq.) of Title 9.1.

E. A commercial ~~driver's instruction~~ *learner's* permit holder with a tank vehicle (N) endorsement (i) must have taken and passed the N endorsement knowledge test and (ii) may only operate an empty tank vehicle and is prohibited from operating any tank vehicle that previously contained hazardous materials that has not been purged of any residue.

F. The issuance of a commercial ~~driver's instruction~~ *learner's* permit is a precondition to the initial issuance of a commercial driver's license and to the upgrade of a commercial driver's license if the upgrade requires a skills test. The commercial ~~driver's instruction~~ *learner's* permit holder is not eligible to take the commercial driver's license skills test until he has held the permit for the required period of time specified in § [46.2-324.1](#).

G. Any ~~instruction~~ *commercial learner's* permit holder who operates a commercial motor vehicle without being accompanied by a licensed driver as provided in this section is guilty of a Class 2 misdemeanor.

H. The Department shall charge a fee of \$3 for each ~~instruction~~ *commercial learner's* permit issued under the provisions of this section.

§ [46.2-341.12](#). Application for commercial driver's license or commercial learner's permit.

A. Every application to the Department for a commercial driver's license or ~~commercial driver's instruction~~ *commercial learner's* permit shall be made upon a form approved and furnished by the Department, and the applicant shall write his usual signature in ink in the space provided. The applicant shall provide the following information:

1. Full legal name;
2. Current mailing and residential addresses;
3. Physical description including sex, height, weight and eye and hair color;
4. Year, month and date of birth;
5. Social ~~Security~~ *security* number; ~~and~~

6. *Domicile or, if not domiciled in the Commonwealth, proof of status as a member of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary pursuant to 49 U.S.C. § 31311(a)(12); and*

7. Any other information required on the application form.

The applicant's ~~Social Security~~ *social security* number shall be provided to the Commercial Driver's License Information System as required by 49 C.F.R. § 383.153.

B. Every applicant for a commercial driver's license or commercial ~~driver's instruction~~ *learner's* permit shall also submit to the Department the following:

1. A consent to release driving record information;

2. Certifications that:

a. He either meets the federal qualification requirements of 49 C.F.R. Parts 383 and 391, or he is exempt from or is not subject to such federal requirements;

b. He either meets the state qualification requirements established pursuant to § [52-8.4](#), or he is exempt from or is not subject to such requirements;

c. The motor vehicle in which the applicant takes the skills test is representative of the class and, if applicable, the type of motor vehicle for which the applicant seeks to be licensed;

d. He is not subject to any disqualification, suspension, revocation or cancellation of his driving privileges;

e. He does not have more than one driver's license;

3. Other certifications required by the Department;

4. Any evidence required by the Department to establish proof of identity, ~~legal presence~~, *citizenship or lawful permanent residency, domicile*, and social security number *notwithstanding the provisions of § [46.2-328.1](#) and pursuant to 49 C.F.R. Part 383; and*

5. A statement indicating whether (i) the applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years and, if so, all states that licensed the applicant and the dates he was licensed, and (ii) whether or not he has ever been disqualified, or his license suspended, revoked or cancelled and, if so, the date of and reason therefor; *and*

6. *An unexpired employment authorization document (EAD) issued by the U.S. Citizenship and Immigration Services (USCIS) or an unexpired foreign passport accompanied by an approved Form I-94 documenting the applicant's most recent admittance into the United States for persons applying for a nondomiciled commercial driver's license or nondomiciled commercial learner's permit.*

C. Every application for a commercial driver's license shall include a photograph of the applicant supplied under arrangements made therefor by the Department in accordance with § [46.2-323](#).

D. The Department shall disqualify any commercial driver for a period of one year when the records of the Department clearly show to the satisfaction of the Commissioner that such person has made a material false statement on any application or certification made for a commercial driver's license or commercial ~~driver's instruction~~ *learner's* permit. The Department shall take such action within 30 days after discovering such falsification.

E. The Department shall review the driving record of any person who applies for a Virginia commercial driver's license or commercial ~~driver's instruction~~ learner's permit, for the renewal or reinstatement of such license or permit or for an additional commercial classification or endorsement, including the driving record from all jurisdictions where, during the previous 10 years, the applicant was licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial ~~driver's instruction~~ learner's permit. If appropriate, the Department shall incorporate information from such other jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving record confirming that such review has been completed and the date it was completed. The Department's review shall include research through the Commercial Driver License Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of licensure. This research shall be completed prior to the issuance, renewal, transfer, or reinstatement of a commercial driver's license or additional commercial classification or endorsement.

The Department shall verify the name, date of birth, and Social Security number provided by the applicant with the information on file with the Social Security Administration for initial issuance of a commercial ~~driver's instruction~~ learner's permit, ~~or transfer of a commercial driver's license from another state or for drivers renewing a commercial driver's license for the first time after July 8, 2011, who have not previously had their Social Security number information verified.~~ The Department shall make a notation in the driver's record confirming that the necessary verification has been completed and noting the date it was done. *The Department shall also make a notation confirming that proof of citizenship or lawful permanent residency has been presented and the date it was done.*

~~F. On and after January 30, 2012, every~~ Every new applicant for a commercial driver's license or commercial ~~driver's instruction~~ learner's permit, including any person applying for a commercial driver's license or permit after revocation of his driving privileges, who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an appropriate medical examiner's certificate, the Department shall post a certification status of "certified" on the record of the driver on the Commercial Driver's License Information System. Any new applicant for a commercial driver's license or commercial ~~driver's instruction~~ learner's permit who fails to comply with the requirements of this subsection shall be denied the issuance of a commercial driver's license or commercial ~~driver's instruction~~ learner's permit by the Department.

~~G. On and after January 30, 2012, but no later than January 30, 2014, every~~ Every existing holder of a commercial driver's license or commercial ~~driver's instruction~~ learner's permit who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an appropriate medical examiner's certificate, the Department shall post a certification status of "certified" and any other necessary information on the record of the driver on the Commercial Driver's License Information System. If an existing holder of a commercial driver's license fails to provide the Department with a medical certificate as required by this subsection, the Department shall post a certification status of "noncertified" on the record of the driver on the Commercial Driver's License Information System and initiate a downgrade of his commercial driver's license as defined in 49 C.F.R. § 383.5.

H. Any person who provides a medical certificate to the Department pursuant to the requirements of subsections F and G shall keep the medical certificate information current and shall notify the Department of any change in the status of the medical certificate. If the Department determines that the medical certificate is no longer valid, the Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R. § 383.5.

I. If the Department receives notice that the holder of a commercial driver's license has been issued a medical variance as defined in 49 C.F.R. § 390.5, the Department shall indicate the existence of such medical variance on the commercial driver's license document of the driver and on the record of the driver on the Commercial Driver's License Information System using the restriction code "V."

J. Any holder of a commercial driver's license who has been issued a medical variance shall keep the medical variance information current and shall notify the Department of any change in the status of the medical variance. If the Department determines that the medical variance is no longer valid, the Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R. § 383.5.

K. Any applicant applying for a hazardous materials endorsement must comply with Transportation Security Administration requirements in 49 C.F.R. Part 1572. A lawful permanent resident of the United States requesting a hazardous materials endorsement must additionally provide his U.S. Citizenship and Immigration Services (USCIS) alien registration number.

§ [46.2-341.14](#). Testing requirements for commercial driver's license; behind-the-wheel and knowledge examinations.

A. The Department shall conduct an examination of every applicant for a commercial driver's license, which examination shall comply with the minimum federal standards established pursuant to the federal Commercial Motor Vehicle Safety Act. The examination shall be designed to test the vision, knowledge, and skills required for the safe operation of the class and type of commercial motor vehicle for which the applicant seeks a license.

B. An applicant's skills test shall be conducted in a vehicle that is representative of or meets the description of the class of vehicle for which the applicant seeks to be licensed. In addition, applicants who seek to be licensed to drive vehicles with air brakes, passenger-carrying vehicles, or school buses must take the skills test in a vehicle that is representative of such vehicle type. Such vehicle shall be furnished by the applicant and shall be properly licensed, inspected and insured.

~~C. Prior to April 1, 1992, the Commissioner may waive the skills test for applicants licensed at the time they apply for a commercial driver's license if:~~

~~1. The applicant has not, and certifies that he has not, at any time during the two years immediately preceding the date of application:~~

~~a. Had more than one driver's license, except during the ten day period beginning on the date such person is issued a driver's license, or unless, prior to December 31, 1989, such applicant was required to have more than one license by a state law enacted before June 1, 1986;~~

~~b. Had any driver's license or driving privilege suspended, revoked or canceled;~~

~~e. Had any convictions involving any kind of motor vehicle for the offenses listed in § [46.2-341.18](#), [46.2-341.19](#), or [46.2-341.20](#); and~~

~~d. Been convicted of a violation of state or local laws relating to motor vehicle traffic control, other than a parking violation, which violation arose in connection with any reportable traffic accident; and~~

~~2. The applicant certifies and provides evidence satisfactory to the Commissioner that he is regularly employed in a job requiring the operation of a commercial motor vehicle, and either:~~

~~a. Has previously taken and successfully completed a skills test which was administered by a state with a classified licensing and testing system and that test was behind the wheel in a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed; or~~

~~b. Has operated, for at least two years immediately preceding the application date, a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed.~~

~~D.~~ The Commissioner may, in his discretion, designate such persons as he deems fit, including private or governmental entities, to administer the knowledge and skills tests required of applicants for a commercial driver's

license. Any person so designated shall comply with all statutes and regulations with respect to the administration of such tests.

The Commissioner shall require all state and third party test examiners to successfully complete a formal commercial driver's license test examiner training course and examination before certifying them to administer commercial driver's license knowledge and skills tests. All state and third party test examiners shall complete a refresher training course and examination every four years to maintain their commercial driver's license test examiner certification. The refresher training course shall comply with 49 C.F.R. § 384.228. At least once every two years, the Department shall conduct covert and overt monitoring of examinations performed by state and third party commercial driver's license test examiners.

The Commissioner shall require a nationwide criminal background check of all test examiners at the time of hiring or prior to certifying them to administer commercial driver's license testing. The Commissioner shall complete a nationwide criminal background check for any state or third party test examiners who are current examiners and who have not had a nationwide criminal background check.

The Commissioner shall revoke the certification to administer commercial driver's license tests for any test examiner who (i) does not successfully complete the required refresher training every four years or (ii) does not pass the required nationwide criminal background check. Criteria for not passing the criminal background check include but are not limited to having a felony conviction within the past 10 years or any conviction involving fraudulent activities.

~~E-D.~~ Every applicant for a commercial driver's license who is required by the Commissioner to take a vision test shall either (i) appear before a license examiner of the Department of Motor Vehicles to demonstrate his visual acuity and horizontal field of vision; or (ii) submit with his application a copy of the vision examination report which was used as the basis for such examination made within 90 days of the application date by an ophthalmologist or optometrist. The Commissioner may, by regulation, determine whether any other visual tests will satisfy the requirements of this title for commercial drivers.

~~F-E.~~ No person who fails the behind-the-wheel examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver training school licensed under Chapter 17 (§ [46.2-1700](#) et seq.) or a comparable course approved by the Department or the Department of Education. In addition, no person who fails the general knowledge examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the knowledge component of driver instruction at a driver training school licensed under Chapter 17 (§ [46.2-1700](#) et seq.) or a comparable course approved by the Department or the Department of Education.

The provisions of this subsection shall not apply to persons placed under medical control pursuant to § [46.2-322](#).

~~G-F.~~ Knowledge tests may be administered in written form, verbally, or in automated format and can be administered in a foreign language, provided no interpreter is used in administering the test.

~~H-G.~~ Interpreters are prohibited during the administration of the skills tests. Applicants must be able to understand and respond to verbal commands and instructions in English by a skills test examiner. Neither the applicant nor the examiner may communicate in a language other than English during the skills test.

*H. Skills tests may be administered to an applicant who has taken training in Virginia and is to be licensed in another state. Such test results shall be electronically transmitted directly from Virginia to the licensing state in an efficient and secure manner. The Department may charge a fee of not more than \$85 to any such applicant.*

*I. The Department shall accept the results of skills tests administered to applicants by any other state in fulfillment of the applicant's testing requirements for commercial licensure in the Commonwealth.*

§ [46.2-341.14:1](#). Requirements for third party testers.

A. Pursuant to § [46.2-341.14](#), third party testers will be authorized to issue skills test certificates, which will be accepted by the Department as evidence of satisfaction of the skills test component of the commercial driver's license examination. Authority to issue skills test certificates will be granted only to third party testers certified by the Department.

B. To qualify for certification, a third party tester shall:

1. Make application to and enter into an agreement with the Department as provided in § [46.2-341.14:3](#);
2. Maintain a place of business in Virginia;
3. Have at least one certified third party examiner in his employ;
4. Ensure that all third party examiners in his employ are certified and comply with the requirements of §§ [46.2-341.14:2](#) and [46.2-341.14:7](#);
5. Permit the Department and the FMCSA of the U.S. Department of Transportation to conduct random examinations, inspections, and audits of its records, facilities, and operations that relate to the third party testing program without prior notice;
6. Maintain at the principal place of business a copy of the state certificate authorizing the third party tester to administer a commercial driver's license testing program and current third party agreement;
7. Maintain at a Virginia location, for a minimum of two years after a skills test is conducted, a record of each driver for whom the third party tester conducts a skills test, whether the driver passes or fails the test. Each such record shall include:
  - a. The complete name of the driver;
  - b. The driver's Social Security number or other driver's license number and the name of the state or jurisdiction that issued the license held by the driver at the time of the test;
  - c. The date the driver took the skills test;
  - d. The test score sheet or sheets showing the results of the skills test and a copy of the skills test certificate, if issued;
  - e. The name and certification number of the third party examiner conducting the skills test; and
  - f. Evidence of the driver's employment with the third party tester at the time the test was taken. If the third party tester is a school board that tests drivers who are trained but not employed by the school board, evidence that (i) the driver was employed by a school board at the time of the test and (ii) the third party tester trained the driver in accordance with the Virginia School Bus Driver Training Curriculum Guide;
8. Maintain at a Virginia location a record of each third party examiner in the employ of the third party tester. Each record shall include:
  - a. Name and Social Security number;
  - b. Evidence of the third party examiner's certification by the Department;

- c. A copy of the third party examiner's current training and driving record, which must be updated annually;
  - d. Evidence that the third party examiner is an employee of the third party tester; and
  - e. If the third party tester is a school board, a copy of the third party examiner's certification of instruction issued by the Virginia Department of Education;
9. Retain the records required in subdivision 8 for at least two years after the third party examiner leaves the employ of the third party tester;
  10. Ensure that skills tests are conducted, and that skills test certificates are issued in accordance with the requirements of §§ [46.2-341.14:8](#) and [46.2-341.14:9](#) and the instructions provided by the Department;
  11. Maintain compliance with all applicable provisions of this article and the third party tester agreement executed pursuant to § [46.2-341.14:3](#); and
  12. Maintain a copy of the third party tester's road test route or routes approved by the Department.

C. In addition to the requirements listed in subsection B, all third party testers who are not governmental entities shall:

1. Be engaged in a business involving the use of commercial motor vehicles, which business has been in operation in Virginia for a minimum of one year;
2. Employ at least 75 Virginia-licensed drivers of commercial motor vehicles, during the 12-month period preceding the application, including part-time and seasonal drivers. This requirement may be waived by the Department pursuant to § [46.2-341.14:10](#);
3. If subject to the FMCSA regulations and rated by the U.S. Department of Transportation, maintain a rating of "satisfactory"; ~~and~~
4. Comply with the Virginia Motor Carrier Safety Regulations; *and*
5. *Initiate and maintain a bond in the amount of \$5,000 to pay for retesting drivers in the event that the third-party tester or one or more of its examiners are involved in fraudulent activities related to conducting knowledge or skills testing for applicants.*

§ [46.2-341.15](#). Commercial driver's license and commercial learner's permit document.

A. The commercial driver's license issued by the Department shall be identified as a Virginia commercial driver's license and shall include at least the following:

1. Full name, a Virginia address, and signature of the licensee;
2. A photograph of the licensee;
3. A physical description of the licensee, including sex and height;
4. The licensee's date of birth and license number that shall be assigned by the Department to the licensee and shall not be the same as the licensee's Social Security number;

5. A designation of the class and type of commercial motor vehicle or vehicles which the licensee is authorized to drive, together with any restrictions; and

6. The date of license issuance and expiration.

B. The commercial ~~driver's instruction~~ *learner's* permit shall be identified as such but shall in all other respects conform to subsection A of this section. A commercial ~~driver's instruction~~ *learner's* permit shall also contain a statement that the permit is invalid unless accompanied by the underlying driver's license.

C. A *nondomiciled commercial driver's license or a nondomiciled commercial learner's permit shall contain the word "nondomiciled" on the face of the document.*

§ [46.2-341.16](#). Vehicle classifications, restrictions, and endorsements.

A. A commercial driver's license or commercial ~~driver's instruction~~ *learner's* permit shall authorize the licensee or permit holder to operate only the classes and types of commercial motor vehicles designated thereon. The classes of commercial motor vehicles for which such license may be issued are:

1. Class A-Combination heavy vehicle. - Any combination of vehicles with a gross combination weight rating of 26,001 or more pounds, provided the gross vehicle weight rating of the vehicles being towed is in excess of 10,000 pounds;

2. Class B-Heavy straight vehicle or other combination. - Any single motor vehicle with a gross vehicle weight rating of 26,001 or more pounds, or any such vehicle towing a vehicle with a gross vehicle weight rating that is not in excess of 10,000 pounds; and

3. Class C-Small vehicle. - Any vehicle that does not fit the definition of a Class A or Class B vehicle and is either (i) designed to transport 16 or more passengers including the driver or (ii) is used in the transportation of hazardous materials.

B. Commercial driver's licenses shall be issued with endorsements authorizing the driver to operate the types of vehicles identified as follows:

1. Type T-Vehicles with double or triple trailers;

2. Type P-Vehicles carrying passengers;

3. Type N-Vehicles with cargo tanks;

4. Type H-Vehicles required to be placarded for hazardous materials;

5. Type S-School buses carrying 16 or more passengers, including the driver;

6. Type X-combination of tank vehicle and hazardous materials endorsements for commercial driver's licenses issued on or after July 1, 2014; and

7. At the discretion of the Department, any additional codes for groupings of endorsements with an explanation of such code appearing on the front or back of the license.

C. Commercial driver's licenses shall be issued with restrictions limiting the driver to the types of vehicles identified as follows:

1. L for no air brake equipped commercial motor vehicles for licenses issued on or after July 1, 2014. An applicant is restricted from operating a commercial motor vehicle with any type of air brake if he does not take or fails the air brake component of the knowledge test or performs the skills test in a vehicle not equipped with air brakes;
2. Z for no full air brake equipped commercial motor vehicles. If an applicant performs the skills test in a vehicle equipped with air over hydraulic brakes, the applicant is restricted from operating a commercial motor vehicle equipped with any braking system operating fully on the air brake principle;
3. E for no manual transmission equipped commercial motor vehicles for commercial driver's licenses issued on or after July 1, 2014;
4. O for no tractor-trailer commercial motor vehicles;
5. M for no class A passenger vehicles;
6. N for no class A and B passenger vehicles;
7. K for vehicles not equipped with air brakes for commercial driver's licenses issued before July 1, 2014. An applicant is restricted from operating a commercial motor vehicle with any type of air brakes if he does not take or fails the air brake component of the knowledge test or performs the skills test in a vehicle not equipped with air brakes;
8. K for intrastate only for commercial driver's licenses issued on or after July 1, 2014;
9. V for medical variance; and
10. At the discretion of the Department, any additional codes for groupings of restrictions with an explanation of such code appearing on the front or back of the license.

D. Commercial-~~driver's instruction~~ *learner's* permits shall be issued with endorsements authorizing the driver to operate the types of vehicles identified as follows:

1. Type P-Vehicles carrying passengers as provided in § [46.2-341.10](#);
2. Type N-Vehicles with cargo tanks as provided in § [46.2-341.10](#); and
3. Type S-School buses carrying 16 or more passengers, including the driver as provided in § [46.2-341.10](#).

E. Commercial-~~driver's instruction~~ *learner's* permits shall be issued with restrictions limiting the driver to the types of vehicles identified as follows:

1. P for no passengers in commercial motor vehicles bus;
2. X for no cargo in commercial motor vehicles tank vehicle;
3. L for no air brake equipped commercial motor vehicles for commercial-~~driver's instruction~~ *learner's* permits issued on or after July 1, 2014. An applicant is restricted from operating a commercial motor vehicle with any type of air brake if he does not take or fails the air brake component of the knowledge test;
4. M for no class A passenger vehicles;
5. N for no class A and B passenger vehicles;

6. K for vehicles not equipped with air brakes for commercial ~~driver's instruction~~ *learner's* permits issued before July 1, 2014. An applicant is restricted from operating a commercial motor vehicle with any type of air brake if he does not take or fails the air brake component of the knowledge test;

7. K for intrastate only for commercial ~~driver's instruction~~ *learner's* permits issued on or after July 1, 2014;

8. V for medical variance; and

9. Any additional jurisdictional restrictions that apply to the commercial ~~driver's instruction~~ *learner's* permit.

F. Persons authorized to drive Class A vehicles are also authorized to drive Classes B and C vehicles, provided such persons possess the requisite endorsements for the type of vehicle driven.

G. Persons authorized to drive Class B vehicles are also authorized to drive Class C vehicles, provided such persons possess the requisite endorsements for the type of vehicle driven.

H. Any licensee who seeks to add a classification or endorsement to his commercial driver's license must submit the application forms, certifications and other updated information required by the Department and shall take and successfully complete the tests required for such classification or endorsement.

I. If any endorsement to a commercial driver's license is canceled by the Department and the licensee does not appear in person at the Department to have such endorsement removed from the license, then the Department may cancel the commercial driver's license of the licensee.

§ [46.2-341.18:3](#). Cancellation of commercial driver's license endorsement for certain offenders.

The Commissioner shall cancel the Type S school bus endorsement for any person holding a commercial driver's license or commercial ~~driver's instruction~~ *learner's* permit who is convicted of an offense for which registration is required in the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ [9.1-900](#) et seq.) of Title 9.1.

Any person holding a commercial driver's license or commercial ~~driver's instruction~~ *learner's* permit with a Type P passenger endorsement who is convicted of an offense for which registration is required in the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ [9.1-900](#) et seq.) of Title 9.1 shall surrender such license or permit to the Department, and shall be issued a license or permit that includes a restriction prohibiting the license or permit holder from operating a vehicle to transport children to or from activities sponsored by a school or by a child day care facility licensed, regulated, or approved by the Virginia Department of Social Services.

If the holder of a commercial driver's license or commercial ~~driver's instruction~~ *learner's* permit fails to surrender the license or permit as required under this section, the Department shall cancel the license or permit.

§ [46.2-341.20](#). Disqualification for multiple serious traffic violations.

A. For the purposes of this section, the following offenses, if committed in a commercial motor vehicle, are serious traffic violations:

1. Driving at a speed 15 or more miles per hour in excess of the posted speed limits;

2. Reckless driving;

3. A violation of a state law or local ordinance relating to motor vehicle traffic control arising in connection with a fatal traffic accident;

4. Improper or erratic traffic lane change;
5. Following the vehicle ahead too closely;
6. Driving a commercial motor vehicle without obtaining a commercial driver's license or commercial ~~driver's instruction~~ learner's permit;
7. Driving a commercial motor vehicle without a commercial driver's license or commercial ~~driver's instruction~~ learner's permit in the driver's immediate possession;
8. Driving a commercial motor vehicle without the proper class of commercial driver's license and/or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported;
9. A violation of a state law, including §§ [46.2-341.20:5](#) and [46.2-919.1](#) or a local ordinance relating to motor vehicle traffic control prohibiting texting while driving; and
10. A violation of a state law, including §§ [46.2-341.20:5](#) and [46.2-919.1](#), or a local ordinance relating to motor vehicle traffic control restricting or prohibiting the use of a handheld mobile telephone while driving a commercial motor vehicle.

For the purposes of this section, parking, vehicle weight, and vehicle defect violations shall not be considered traffic violations.

B. Beginning September 30, 2005, the following offenses shall be treated as serious traffic violations if committed while operating a noncommercial motor vehicle, but only if (i) the person convicted of the offense was, at the time of the offense, the holder of a commercial driver's license or commercial ~~driver's instruction~~ learner's permit; (ii) the offense was committed on or after September 30, 2005; and (iii) the conviction, by itself or in conjunction with other convictions that satisfy the requirements of this section, resulted in the revocation, cancellation, or suspension of such person's driver's license or privilege to drive.

1. Driving at a speed 15 or more miles per hour in excess of the posted speed limits;
2. Reckless driving;
3. A violation of a state law or local ordinance relating to motor vehicle traffic control arising in connection with a fatal traffic accident;
4. Improper or erratic traffic lane change; or
5. Following the vehicle ahead too closely.

C. The Department shall disqualify for the following periods of time, any person whose record as maintained by the Department shows that he has committed, within any three-year period, the requisite number of serious traffic violations:

1. A 60-day disqualification period for any person convicted of two serious traffic violations; or
2. A 120-day disqualification period for any person convicted of three serious traffic violations.

D. Any disqualification period imposed pursuant to this section shall run consecutively, and not concurrently, with any other disqualification period imposed hereunder.

§ [46.2-341.20:4](#). Disqualification of driver convicted of fraud related to the testing and issuance of a commercial learner's permit or commercial driver's license.

A person who has been convicted of fraud pursuant to § [46.2-348](#) related to the issuance of a commercial-~~driver's instruction~~ learner's permit or commercial driver's license shall be disqualified for a period of one year. The application of a person so convicted who seeks to renew, transfer, or upgrade the fraudulently obtained commercial driver's license or seeks to renew or upgrade the fraudulently obtained commercial-~~driver's instruction~~ learner's permit must also, at a minimum, be disqualified. Any disqualification must be recorded in the person's driving record. The person may not reapply for a new commercial driver's license for at least one year.

If the Department receives credible information that a commercial-~~driver's instruction~~ learner's permit holder or commercial driver's license holder is suspected, but has not been convicted, of fraud related to the issuance of his commercial-~~driver's instruction~~ learner's permit or commercial driver's license, the Department shall require the driver to retake the skills test or knowledge test, or both. Within 30 days of receiving notification from the Department that ~~re-testing~~ *retesting* is necessary, the affected commercial-~~driver's instruction~~ learner's permit holder or commercial driver's license holder must make an appointment or otherwise schedule to take the next available test. If the commercial-~~driver's instruction~~ learner's permit holder or commercial driver's license holder fails to make an appointment within 30 days, the Department shall disqualify his commercial-~~driver's instruction~~ learner's permit or commercial driver's license. If the driver fails either the knowledge or skills test or does not take the test, the Department shall disqualify his commercial-~~driver's instruction~~ learner's permit or commercial driver's license. Once a commercial-~~driver's instruction~~ learner's permit holder's or commercial driver's license holder's commercial ~~driver's instruction~~ learner's permit or commercial driver's license has been disqualified, he must reapply for a commercial-~~driver's instruction~~ learner's permit or commercial driver's license under Department procedures applicable to all commercial-~~driver's instruction~~ learner's permit and commercial driver's license applicants.

§ [46.2-348](#). Fraud or false statements in applications for license; penalties.

Any person who uses a false or fictitious name or gives a false or fictitious address in any application for a driver's license or escort vehicle driver certificate, or any renewal or duplicate thereof, or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud during the driver's license examination, including for a commercial driver's license or commercial-~~driver's instruction~~ learner's permit, or in his application is guilty of a Class 2 misdemeanor. However, where the license is used, or the fact concealed, or fraud is done, with the intent to purchase a firearm or use as proof of residency under § [9.1-903](#), a violation of this section shall be punishable as a Class 4 felony.

§ [46.2-649.3](#). *Registration of covered farm vehicles.*

A. *For the purposes of this section, a covered farm vehicle shall be registered pursuant to the provisions of § [46.2-698](#).*

B. *As defined in regulations promulgated by the Federal Motor Carrier Safety Administration (49 C.F.R. Part 390.5), a "covered farm vehicle" means a straight truck or articulated vehicle that is:*

- 1. a. Registered in Virginia pursuant to the provisions of § [46.2-698](#); or*
- b. Registered in another state with a license plate or other designation issued by the state of registration that allows law enforcement to identify it as a farm vehicle;*
- 2. Operated by the owner or operator of a farm or ranch or by an employee or family member of an owner or operator of a farm or ranch;*
- 3. Used to transport agricultural commodities, livestock, machinery, or supplies to or from a farm or ranch;*

4. Not used in for-hire motor carrier operations; however, for-hire motor carrier operations do not include the operation of a vehicle meeting the requirements of subdivisions 1, 2, and 3 by a tenant pursuant to a crop share farm lease agreement to transport the landlord's portion of the crops under that agreement; and

5. Not used in transporting material found by the U.S. Secretary of Transportation to be hazardous under 49 U.S.C. § 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 C.F.R., subtitle B, chapter I, subchapter C.

C. A straight truck or articulated vehicle meeting the requirements of subsection B and having (i) a gross vehicle weight or gross vehicle weight rating, whichever is greater, of 26,001 pounds or less may utilize the exemptions provided in § [46.2-649.4](#) without mileage limitations or (ii) a gross vehicle weight or gross vehicle weight rating, whichever is greater, of more than 26,001 pounds may utilize the exemptions defined in § [46.2-649.4](#) anywhere in the Commonwealth or across state lines within 150 air miles (176.2 miles) of the farm or ranch with respect to which the vehicle is being operated.

D. For the purposes of this section, "agricultural commodities" means any horticultural plants and crops, cultivated plants and crops, poultry, dairy, and farm products, livestock and livestock products, and products derived from bees and beekeeping, primarily for sale, consumption, propagation, or other use by man or animals.

§ [46.2-649.4](#). Covered farm vehicles; exemptions.

A covered farm vehicle as defined in § [46.2-649.3](#), including the operator of that vehicle, is exempt from the following:

1. Any requirement relating to commercial driver's licenses in Federal Motor Carrier Safety Regulations 49 C.F.R. Part 383;

2. Any requirement relating to controlled substances and alcohol use and testing in Federal Motor Carrier Safety Regulations 49 C.F.R. Part 382;

3. Any requirement in Federal Motor Carrier Safety Regulations 49 C.F.R. Part 391, Subpart E, Physical Qualifications and Examinations;

4. Any requirement in Federal Motor Carrier Safety Regulations 49 C.F.R. Part 395, Hours of Service of Drivers; and

5. Any requirement in Federal Motor Carrier Safety Regulations 49 C.F.R. Part 396, Inspection, Repair, and Maintenance.

§ [46.2-2011.29](#). Surrender of identification marker, license plate, and registration card; removal by law enforcement; operation of vehicle denied.

A. It shall be unlawful for a licensee, permittee, or certificate holder whose license, permit, or certificate has *expired or been revoked; or suspended or whose renewal thereof has been denied* pursuant to this chapter to fail or refuse to surrender, on demand, to the Department license plates, identification markers, and registration cards issued under this title.

B. It shall be unlawful for a vehicle owner who is not the holder of a valid permit or certificate or whose vehicle is not validly leased to a motor carrier holding an active permit or certificate to fail or refuse to surrender to the Department on demand license plates, identification markers, and registration cards issued under this title.

C. If any ~~law enforcement~~ law-enforcement officer finds that a ~~motor carrier~~ vehicle bearing Virginia license plates or temporary transport plates is ~~being operated~~ in violation of subsection A ~~of this section~~ or B, such ~~law enforcement~~ law-enforcement officer ~~shall~~ may remove the license plate, identification marker, and registration card

~~and~~. If a law-enforcement officer removes a license plate, identification marker, or registration card, he shall forward the same to the Department.

~~C-D~~. When informed that a vehicle is being operated in violation of this section, the driver shall drive the vehicle to a nearby location off the public highways and not remove it or allow it to be moved until the motor carrier is in compliance with all provisions of this chapter.

§ [46.2-2139](#). Surrender of identification marker, license plate, and registration card; removal by law enforcement; operation of vehicle denied.

A. It shall be unlawful for a licensee, permittee, or certificate holder whose license, permit, or certificate has *expired or been revoked, or suspended, or whose renewal thereof has been denied* pursuant to this chapter to fail or refuse to surrender, on demand, to the Department license plates, identification markers, and registration cards issued under this title.

B. *It shall be unlawful for a vehicle owner who is not the holder of a valid permit or certificate or whose vehicle is not validly leased to a motor carrier holding an active permit or certificate to fail or refuse to surrender to the Department on demand license plates, identification markers, and registration cards issued under this title.*

C. If any ~~law-enforcement~~ law-enforcement officer finds that a ~~motor-carrier~~ vehicle bearing Virginia license plates or temporary transport plates is ~~being operated~~ in violation of subsection A ~~of this section~~ or B, such ~~law-enforcement~~ law-enforcement officer ~~shall~~ may remove the license plate or plates, identification marker, and registration card ~~and~~. *If a law-enforcement officer removes a license plate, identification marker, or registration card, he shall forward such license plate, identification marker, and registration card to the Department.*

~~C-D~~. When informed that a motor carrier vehicle is being operated in violation of this section, the driver shall drive the vehicle to a nearby location off the public highways and not remove it or allow it to be moved until the motor carrier is in compliance with all provisions of this chapter.

§ [46.2-2900](#). Definitions.

As used in this chapter, the following words and terms shall have the following meaning unless the context clearly indicates otherwise:

"Certified escort vehicle driver" means a person, ~~24~~ 18 years of age or older, who holds a valid driver's license and a valid escort vehicle driver certificate issued (i) by the Commonwealth or (ii) by a state whose escort vehicle driver certification program has been determined to be substantially similar to the Commonwealth's and to which the Commonwealth has extended reciprocity.

"Escort vehicle driver certificate" means a credential issued under the laws of the Commonwealth or other state authorizing the holder to escort a permitted vehicle or vehicles.

"Permitted vehicle or vehicles" means any vehicle being operated under the provisions of a valid highway hauling permit issued pursuant to § [46.2-1139](#) that requires that the permitted vehicle or vehicles be accompanied by a certified escort vehicle driver or drivers.

§ [46.2-2906](#). Application for escort vehicle driver certificate; driving record; proof of completion of escort vehicle driver training; fee.

A. Every application for an escort vehicle driver certificate shall be made on a form prescribed by the Department, and the applicant shall write his usual signature in ink in the space provided on the form. A person who applies for an escort vehicle driver certificate must meet the following requirements:

1. Be at least ~~24~~ 18 years of age;

2. Hold a valid Virginia driver's license or a valid driver's license for another state;
3. Authorize the Department to review his driving record;
4. Present satisfactory proof of successful completion of an eight-hour escort vehicle driver certification training course, as required by § [46.2-2904](#);
5. Pass the escort vehicle driver certification knowledge test as required by § [46.2-2905](#) with a score of 80 percent or higher; and
6. Pay the appropriate fee for certificate issuance.

B. Every application shall state the applicant's full legal name; year, month, and date of birth; social security number; sex; and residence address. The applicant shall also answer any questions on the application form, or otherwise propounded, and provide any other information as required by the Department incidental to the application.

C. The Commissioner shall require that each application include a certification statement, to be signed by the applicant under penalty of perjury, certifying that the information presented on the application is true and correct. If the applicant fails or refuses to sign the certification statement, the Department shall not issue the applicant an escort vehicle driver certificate.

Any applicant who knowingly makes a false certification or supplies false or fictitious evidence shall be punished as provided in § [46.2-348](#).

§ [46.2-2907](#). Nonresident; extensions of reciprocal privileges.

A nonresident age ~~21~~ 18 years or older who has been duly licensed as a driver under a law regulating the licensure of drivers in his home state and who has in his immediate possession a valid driver's license and a valid escort vehicle driver certificate issued to him in his home state, where such state's escort vehicle driver certification program has been determined to be substantially similar to the Commonwealth's and to which the Commonwealth has extended reciprocity, shall be permitted without a Virginia license or a Virginia escort vehicle driver certificate to escort a permitted vehicle or vehicles on the highways of the Commonwealth. Such nonresident shall be exempt from the escort vehicle driver certification eligibility, training, and testing requirements of this chapter.

If such nonresident desires to also hold a Virginia escort vehicle driver certificate, in addition to the valid certificate issued to him by his home state, he must then meet all of the Virginia escort vehicle driver certification eligibility, training, and testing requirements of this chapter.

§ [52-8.4](#). Powers and duties to promulgate regulations; inspection of certain records.

A. The Superintendent of State Police, with the cooperation of such other agencies of the Commonwealth as may be necessary, shall promulgate regulations pertaining to commercial motor vehicle safety pursuant to the United States Motor Carrier Act of 1984. These regulations shall set forth criteria relating to driver, vehicle, and cargo safety inspections with which motor carriers and transport vehicles shall comply, and shall be no more restrictive than the applicable provisions of the Federal Motor Carrier Safety Regulations of the United States Department of Transportation. These regulations shall not apply to hours worked by any carrier when transporting passengers or property to or from any portion of the Commonwealth for the purpose of (i) providing relief or assistance in case of earthquake, flood, fire, famine, drought, epidemic, pestilence, or other calamity or disaster or (ii) engaging in the provision or restoration of utility services when the loss of such service is unexpected, unplanned or unscheduled. The suspension of the regulation provided for in this subsection shall expire if the Secretary of the United States Department of Transportation determines that it is in conflict with the intent of Federal Motor Carrier Safety Regulations.

B. For the purposes of this section:

"Commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in commerce to transport passengers or property if such vehicle (i) has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, whichever is greater, of more than 10,000 pounds when operated interstate or more than 26,000 pounds when operated intrastate, (ii) is designed or used to transport more than 15 passengers, including the driver, regardless of weight, or (iii) is used to transport hazardous materials in a quantity requiring placards by regulations issued under authority of Article 7 (§ [10.1-1450](#) et seq.) of Chapter 14 of Title 10.1.

"Motor carrier" means a common carrier by motor vehicle, a contract carrier by motor vehicle, or a private carrier of property or passengers by motor vehicle. This term also encompasses any agent, officer, representative, or employee who is responsible for the hiring, supervision, training, assignment, or dispatching of drivers.

"Transport vehicle" means any vehicle owned or leased by a motor carrier used in the transportation of goods or persons.

"Safety inspection" means the detailed examination of a vehicle for compliance with safety regulations promulgated under this section and includes a determination of the qualifications of the driver and his hours of service.

C. Except for those offenses listed in § [52-8.4:2](#), any violation of the provisions of the regulations adopted pursuant to this section shall constitute a traffic infraction punishable by a fine of not more than \$1,000 for the first offense or by a fine of not more than \$5,000 for a subsequent offense. Each day of violation shall constitute a separate offense; however, any violation of any out-of-service order issued under authority of such regulations or under authority of the Federal Motor Carrier Safety regulations shall be punished as provided in § [46.2-341.21](#) and the disqualification provisions of § [46.2-341.21](#) also shall apply to any driver so convicted.

D. The Department of State Police, together with all other law-enforcement officers certified to perform vehicle safety inspections as defined by § [46.2-1001](#) who have satisfactorily completed 40 hours of on-the-job training and a course of instruction as prescribed by the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, in federal motor carrier safety regulations, safety inspection procedures, and out-of-service criteria, shall enforce the regulations and other requirements promulgated pursuant to this section. Those law-enforcement officers certified to enforce the regulations and other requirements promulgated pursuant to this section shall annually receive in-service training in current federal motor carrier safety regulations, safety inspection procedures, and out-of-service criteria.

E. Any records required to be maintained by motor carriers pursuant to regulations promulgated by the Superintendent under the authority of subsection A of this section shall be open to inspection during a carrier's normal business hours by specially trained members of the Department of State Police specifically designated by the Superintendent. Members of the Department of State Police designated for that purpose by the Superintendent shall also be authorized, with the consent of the owner, operator, or agent in charge or with an appropriate warrant obtained under the procedure prescribed in Chapter 24 (§ [19.2-393](#) et seq.) of Title 19.2, to go upon the property of motor carriers to verify the accuracy of maintenance records by an inspection of the vehicles to which those records relate.

*Any person holding a valid commercial driver's license shall be exempt from the hours of service of drivers provisions as defined in regulations promulgated by the Federal Motor Carrier Safety Administration (49 C.F.R. Part 395) while operating a commercial motor vehicle during planting and harvest periods to transport:*

*1. Agricultural commodities from the source of the agricultural commodities to a location within 150 air miles (176.2 miles) from the source;*

*2. Farm supplies for agricultural purposes from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 150-air-mile radius (176.2 miles) from the distribution point; or*

*3. Farm supplies for agricultural purposes from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 150-air-mile radius (176.2 miles) from the wholesale distribution point.*

**Titling and registration requirements; off-road motorcycles converted to on-road use; penalty.** Establishes titling and registration requirements for off-road motorcycles converted to on-road use and includes off-road motorcycles converted to on-road use in existing titling requirements for nonconventional vehicles. The bill requires individuals who convert off-road motorcycles to on-road use to certify that the vehicle (i) passed Virginia safety inspections, (ii) meets all federal safety standards, and (iii) is properly labeled. The bill makes falsifying the required certification a Class 1 misdemeanor.

#### CHAPTER 259

An Act to amend and reenact § [46.2-625](#) of the Code of Virginia and to amend the Code of Virginia by adding a section numbered [46.2-602.4](#), relating to titling and registration of non-conventional vehicles; penalty.

[S 1003]

Approved March 17, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [46.2-625](#) of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered [46.2-602.4](#) as follows:

§ [46.2-602.4](#). *Titling and registration of off-road motorcycle converted to on-road use.*

A. *For the purpose of this section:*

"Converter" means a person who, through the act of conversion, alters an off-road motorcycle for on-road use on the highways by the addition, substitution, or removal of motor vehicle equipment, creating a motor vehicle to which Federal Motor Vehicle Safety Standards for new motorcycles will become applicable at the time of the conversion. A converter shall be considered a manufacturer responsible under 49 U.S.C. § 30112 for compliance of the motorcycle with Federal Motor Vehicle Safety Standards and the certification of compliance required by those standards.

"Federal Motor Vehicle Safety Standards" means the standards prescribed by 49 C.F.R. Part 571.

"Manufacturer" means a person manufacturing or assembling motor vehicles or motor vehicle equipment.

"Motor vehicle equipment" means (i) any system, part, or component of a motor vehicle as originally manufactured or (ii) any similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle.

"Off-road motorcycle converted to on-road use" means every off-road motorcycle that has been converted for use on the public highways with the addition of such necessary equipment to meet all applicable Federal Motor Vehicle Safety Standards for new motorcycles for the year in which it is converted.

B. Each converter shall certify in accordance with the requirements of subsection E that the off-road motorcycle converted to on-road use meets all applicable Federal Motor Vehicle Safety Standards for new motorcycles for the year in which it is converted. If the converter is unavailable or unknown, the owner shall certify that the converter is unavailable or unknown and that he assumes responsibility for all duties and corresponding liabilities under the Federal Motor Vehicle Safety Act. If a converter or owner fails or refuses to provide the required certification, the vehicle shall remain an off-road motorcycle.

C. Each converter, or owner if the converter is unavailable or unknown, shall permanently affix to each vehicle a label containing the following: (i) the name of manufacturer, (ii) the month and year of manufacture, (iii) the gross vehicle weight rating, (iv) the gross axle weight rating, (v) certification that the vehicle conforms to all applicable Federal Motor Vehicle Safety Standards in effect on the date of manufacture in the year in which it is converted, (vi) the vehicle identification number, and (vii) the motorcycle vehicle classification. Such label shall meet the requirements set forth in 49 C.F.R. § 567.4.

*D. Upon receipt of an application and such evidence of ownership as required by the Commissioner pursuant to § [46.2-625](#), the Department shall issue a certificate of title for an off-road motorcycle converted to on-road use. The first certificate of title issued for an off-road motorcycle converted to on-road use shall be an original certificate of title, regardless of the submission of a Virginia certificate of title issued for the off-road motorcycle prior to conversion.*

*E. No off-road motorcycle converted to on-road use shall be registered or operated on the highways of the Commonwealth until the owner submits to the Department, upon a form approved and furnished by the Department, (i) certification that the motor vehicle has passed the motor vehicle safety inspection subsequent to the conversion; (ii) certification from the converter, or owner if the converter is unavailable or unknown, that the motor vehicle meets all applicable Federal Motor Vehicle Safety Standards; and (iii) certification that the motor vehicle has been labeled in accordance with subsection C.*

*F. When necessary and upon application, the Department shall issue temporary trip permits in accordance with § [46.2-651](#) for the purpose of transporting the off-road motorcycle converted to on-road use to and from an official motor vehicle safety inspection station.*

*G. Notwithstanding §§ [46.2-105](#) and [46.2-605](#), any certification required by this section found to be knowingly given falsely is punishable as a Class 1 misdemeanor.*

§ [46.2-625](#). Specially constructed, reconstructed, replica, converted electric, or foreign vehicles.

If a vehicle for which the registration or a certificate of title is applied is (i) a specially constructed, reconstructed, replica, converted electric, or foreign vehicle or (ii) off-road motorcycle converted to on-road use, the fact shall be stated in the application and, in the case of any foreign vehicle registered outside the Commonwealth, the owner shall present to the Department the certificate of title and registration card or other evidence of registration as he may have. The Commissioner may require such other evidence of ownership as he may deem advisable and promulgate regulations establishing what additional evidence of ownership, if any, shall be required for titling and registration of (i) specially constructed, reconstructed, replica, converted electric, or foreign vehicles or (ii) off-road motorcycles converted to on-road use. All titles and registrations for specially constructed, reconstructed, replica, and converted electric vehicles and off-road motorcycles converted to on-road use shall be branded with the words "specially constructed," "reconstructed," "replica," ~~or~~ "converted electric," or "off-road motorcycle converted to on-road use," as appropriate. Titles for vehicles that are both converted electric vehicles and reconstructed vehicles shall be branded with the words "reconstructed" and "converted electric."

**Auxiliary lights on public utility vehicles.** Provides that any electrical service utility vehicle owned and operated by a public utility and having a gross vehicle weight rating greater than 15,000 pounds may be equipped with clear auxiliary lights mounted on the lower portion of the vehicle and aimed downward for the exclusive use of ground lighting

**CHAPTER 341**

*An Act to amend the Code of Virginia by adding a section numbered [46.2-1028.1](#), relating to auxiliary lights on public utility vehicles.*

[H 2289]

Approved March 19, 2015

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered [46.2-1028.1](#) as follows:

§ [46.2-1028.1](#). *Auxiliary lights on public utility vehicles.*

*Any electrical service utility vehicle owned and operated by a public utility, as defined in § [56-265.1](#), and having a gross vehicle weight rating greater than 15,000 pounds may be equipped with clear auxiliary lights that shall be mounted on the lower portion of the vehicle and aimed downward for the exclusive use of ground lighting. Such lights shall be of a type approved by the Superintendent and shall not be used in a manner that may blind or interfere with the vision of the drivers of approaching vehicles. In no event shall such lights be lighted while the vehicle is in motion.*

**Passing with a double yellow line.** Allows drivers to cross double yellow lines or a solid yellow line immediately adjacent to a broken yellow line in order to pass a pedestrian or a device moved by human power, if such movement can be made safely. The bill also relocates a definition from the end of the section to the beginning for clarity. This bill incorporated [SB 1027](#) and [SB 1228](#).

#### CHAPTER 416

An Act to amend and reenact § [46.2-804](#) of the Code of Virginia, relating to passing with a double yellow line.

[S 781]

Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [46.2-804](#) of the Code of Virginia is amended and reenacted as follows:

§ [46.2-804](#). Special regulations applicable on highways laned for traffic.

*For the purposes of this section, "traffic lines" includes any temporary traffic control devices used to emulate the lines and markings in subdivisions 6 and 7.*

Whenever any roadway has been divided into clearly marked lanes for traffic, drivers of vehicles shall obey the following:

1. Any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions existing, shall be driven in the lane nearest the right edge or right curb of the highway when such lane is available for travel except when overtaking and passing another vehicle or in preparation for a left turn or where right lanes are reserved for slow-moving traffic as permitted in this section;
2. A vehicle shall be driven as nearly as is practicable entirely within a single lane and shall not be moved from that lane until the driver has ascertained that such movement can be made safely;
3. Except as otherwise provided in subdivision 5 of this section, on a highway which is divided into three lanes, no vehicle shall be driven in the center lane except when overtaking and passing another vehicle or in preparation for a left turn or unless such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signed or marked to give notice of such allocation. Traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device;
4. The Commissioner of Highways, or local authorities in their respective jurisdictions, may designate right lanes for slow-moving vehicles and the Virginia Department of Transportation shall post signs requiring trucks and combination vehicles to keep to the right on Interstate Highway System components with no more than two travel lanes in each direction where terrain is likely to slow the speed of such vehicles climbing hills and inclines to a speed that is less than the posted speed limit;
5. Wherever a highway is marked with double traffic lines consisting of a solid line immediately adjacent to a broken line, no vehicle shall be driven to the left of such line if the solid line is on the right of the broken line, ~~but it shall be lawful to make a left turn~~ except (i) when turning left for the purpose of entering or leaving a public, private, or commercial road or entrance or (ii) in order to pass a pedestrian or a device moved by human power, including a bicycle, skateboard, or foot-scooter, provided such movement can be made safely. Where the middle lane of a highway is marked on both sides with a solid line immediately adjacent to a broken line, such middle lane shall be considered a left-turn or holding lane and it shall be lawful to drive to the left of such line if the solid line is on the right of the broken line for the purpose of turning left into any road or entrance, provided that the vehicle may not travel in such lane further than 150 feet;

6. Wherever a highway is marked with double traffic lines consisting of two immediately adjacent solid yellow lines, no vehicle shall be driven to the left of such lines, except (i) when turning left or (ii) in order to pass a pedestrian or a device moved by human power, including a bicycle, skateboard, or foot-scooter, provided such movement can be made safely; and

7. Whenever a highway is marked with double traffic lines consisting of two immediately adjacent solid white lines, no vehicle shall cross such lines;

~~8. For the purposes of this section, "traffic lines" shall include any temporary traffic control devices used to emulate the lines and markings in subdivisions 6 and 7.~~

## TRAFFIC – SUMMARY ONLY

SB1025 and HB1662 - §§ 46.2-694, 46.2-711, 46.2-749.5, 46.2-753, 46.2-755, 46.2-1400, 46.2-2000, 46.2-2001.3, 46.2-2011.5, 46.2-2011.6, 46.2-2011.20, 46.2-2011.22, 46.2-2011.24, 46.2-2011.29, and 46.2-2051 - **Transportation network companies.** Establishes a process for the licensing of transportation network companies (TNCs) by the Department of Motor Vehicles (DMV), provided that TNCs comply with the requirements for licensure. The bill requires TNCs to screen drivers (TNC partners), ensure that all drivers are at least 21 years old and properly licensed to drive, and conduct background checks on all drivers including a national criminal background check, a driving history report, and status on the state and national sex offender registries.

The bill also requires that TNC partner vehicles be titled and registered personal vehicles; be insured; have a maximum seating capacity of no more than seven persons, excluding the driver; be registered with DMV for TNC use; and display TNC and DMV identification markers. The bill further requires that TNC drivers be covered by a specific liability insurance policy and specifies the nature and limits of the insurance coverage. The bill also imposes several other operational requirements, including requirements that the TNC provide a credential to the driver and disclose information about the TNC partner and TNC policies to passengers.

The bill authorizes DMV to conduct periodic reviews of TNCs to confirm compliance and authorizes fees to cover DMV's costs of administering the program, an initial TNC license fee of \$100,000 and an annual license renewal fee of \$60,000. The bill requires DMV to review the fee structure and report by December 1, 2016. This bill is identical to [HB 1662](#).

HB1522 and SB778 – Uncodified Act - **Hauling motor fuels; times of emergency.** Directs certain state agencies to establish a protocol for a declaration of a state of emergency for resource shortages that adversely affect the delivery of motor fuels, gasoline, diesel, kerosene, number one and number two heating oils, or liquid propane gas and to report on such protocol by the first day of the 2016 Session. This bill is identical to [SB 778](#).

HB2072 and SB989 - § 46.2-1148.1 - **Overweight permits; forest products.** Establishes an overweight permit for hauling forest products and provides for the weight limits and the fee of \$130 for the permit. This bill is identical to [SB 989](#).

HB1341 and SB1218 - § 46.2-1177 - **Motor vehicle emissions inspection program; autocycles.** Exempts autocycles that have not been emissions certified with an on-board diagnostic system by the U.S. Environmental Protection Agency from the motor vehicle emissions inspection program. This bill is identical to [SB 1218](#).

HB1331 - § 15.2-1610 - **Sheriff's office; motor vehicle markings.** Clarifies the markings that are to be placed on motor vehicles used by sheriff's offices.

HB1603 - § 46.2-345 - **Special identification cards.** Allows special identification cards issued by DMV to indicate, when requested by the applicant, his parent if the applicant is a minor, or his guardian, that the applicant (i) is an insulin-dependent diabetic, (ii) is hearing or speech impaired, or (iii) has an intellectual disability, as defined in § 37.2-100, or autism spectrum disorder, as defined in § 38.2-3418.17. Current law allows only the applicant to request a special identification card.

HB1748 - § 46.2-380 - **Accident reports maintained by DMV.** Grants next of kin of any person injured or killed in an accident, except for minors, access to reports of the accident maintained by DMV. Access to reports of accidents involving a minor is only available to the minor's parent or guardian.

HB1593 - § 15.2-968.01 - **Parking in residential areas; public right-of-way.** Provides that localities may by ordinance permit the parking of vehicles within residential areas in a public right-of-way that constitutes a part of the state highway system so long as the vehicle does not obstruct the right-of-way.

HB1544 - § 46.2-1028.1 - **Vehicle illuminated identification systems.** Allows emergency vehicles to be equipped with illuminated identification systems that assist aircraft in reading numbers and other identifying markings on the roofs of the emergency vehicles.

HB1531 and SB803 - § 46.2-873 - **Speed limits in school zones.** Allows counties in Planning District 8 to increase or decrease the speed limits in school zones; current law allows cities and towns to do so. This bill is identical to [SB 803](#).

HB1639 - §§ 18.2-271.1 and 46.2-391.01 - **DUI; persons convicted under laws of other states or federal law; restricted license; ignition interlock.** Provides that a person convicted in a federal court of an offense substantially similar to Virginia's DUI law may petition the general district court that he be assigned to a certified alcohol safety program and issued a restricted driver's license. Currently, only persons convicted in other states of substantially similar DUI offenses may so petition. The bill also requires that, as a condition of a restricted license, a person who has been convicted of a substantially similar DUI offense under the laws of another state or the United States be prohibited from operating a motor vehicle that is not equipped with an ignition interlock system. This bill contains an emergency clause. This bill incorporates [HB 2260](#).

## CRIMINAL – FULL TEXT

**Possession or distribution of marijuana for medical purposes; epilepsy.** Provides an affirmative defense in a prosecution for the possession of marijuana if the marijuana is in the form of cannabidiol oil or THC-A oil possessed pursuant to a valid written certification issued by a practitioner of medicine or osteopathy licensed by the Board of Medicine for purposes of treating or alleviating a patient's symptoms of intractable epilepsy. The bill provides that a practitioner shall not be prosecuted for distribution of marijuana under the circumstances outlined in the bill. The bill contains an emergency clause. This bill is identical to [SB 1235](#).

### CHAPTER 7

*An Act to amend and reenact § [18.2-250.1](#) of the Code of Virginia and to amend the Code of Virginia by adding a section numbered [54.1-3408.3](#), relating to possession or distribution of marijuana for medical purposes; epilepsy.*

[H 1445]

Approved February 26, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [18.2-250.1](#) of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered [54.1-3408.3](#) as follows:

§ [18.2-250.1](#). Possession of marijuana unlawful.

A. It is unlawful for any person knowingly or intentionally to possess marijuana unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act (§ [54.1-3400](#) et seq.).

Upon the prosecution of a person for violation of this section, ownership or occupancy of the premises or vehicle upon or in which marijuana was found shall not create a presumption that such person either knowingly or intentionally possessed such marijuana.

Any person who violates this section ~~shall be~~ is guilty of a misdemeanor, and *shall* be confined in jail not more than ~~thirty~~ 30 days and ~~a fine of~~ *fined* not more than \$500, either or both; any person, upon a second or subsequent conviction of a violation of this section, ~~shall be~~ is guilty of a Class 1 misdemeanor.

B. The provisions of this section shall not apply to members of state, federal, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § [53.1-1](#), certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

*C. In any prosecution under this section involving marijuana in the form of cannabidiol oil or THC-A oil as those terms are defined in § [54.1-3408.3](#), it shall be an affirmative defense that the individual possessed such oil pursuant to a valid written certification issued by a practitioner in the course of his professional practice pursuant to § [54.1-3408.3](#) for treatment or to alleviate the symptoms of (i) the individual's intractable epilepsy or (ii) if such individual is the parent or legal guardian of a minor, such minor's intractable epilepsy. If the individual files the valid written certification with the court at least 10 days prior to trial and causes a copy of such written certification to be delivered to the attorney for the Commonwealth, such written certification shall be prima facie evidence that such oil was possessed pursuant to a valid written certification.*

§ [54.1-3408.3](#). Certification for use of cannabidiol oil or THC-A oil to treat intractable epilepsy.

A. As used in this section:

*"Cannabidiol oil" means a processed Cannabis plant extract that contains at least 15 percent cannabidiol but no more than five percent tetrahydrocannabinol, or a dilution of the resin of the Cannabis plant that contains at least 50 milligrams of cannabidiol per milliliter but not more than five percent tetrahydrocannabinol.*

*"THC-A oil" means a processed Cannabis plant extract that contains at least 15 percent tetrahydrocannabinol acid but not more than five percent tetrahydrocannabinol, or a dilution of the resin of the Cannabis plant that contains at least 50 milligrams of tetrahydrocannabinol acid per milliliter but not more than five percent tetrahydrocannabinol.*

*B. A practitioner of medicine or osteopathy licensed by the Board of Medicine in the course of his professional practice may issue a written certification for the use of cannabidiol oil or THC-A oil for treatment or to alleviate the symptoms of a patient's intractable epilepsy.*

*C. The written certification shall be on a form provided by the Office of the Executive Secretary of the Supreme Court developed in consultation with the Board of Medicine. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration.*

*D. No practitioner shall be prosecuted under § [18.2-248](#) or [18.2-248.1](#) for dispensing or distributing cannabidiol oil or THC-A oil for the treatment or to alleviate the symptoms of a patient's intractable epilepsy pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.*

2. That an emergency exists and this act is in force from its passage.

**Warrant requirement for certain telecommunications records; prohibition on collection by law enforcement.** Provides that if an investigative or law-enforcement officer would be required to obtain a search warrant in order to obtain the contents of electronic communications or real-time location data from a provider of electronic communication service or remote computing service, the officer shall not use any device to intercept such communications or collect such real-time location data without first obtaining a search warrant authorizing the use of the device. This bill incorporates [HB 1348](#).

#### CHAPTER 43

*An Act to amend and reenact § 19.2-70.3 of the Code of Virginia, relating to warrant requirement for certain telecommunications records; prohibition on collection by law enforcement.*

[H 1408]

Approved March 10, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [19.2-70.3](#) of the Code of Virginia is amended and reenacted as follows:

§ [19.2-70.3](#). Obtaining records concerning electronic communication service or remote computing service.

A. A provider of electronic communication service or remote computing service, which, for purposes of subdivisions 2 through 4, includes a foreign corporation that provides such services, shall disclose a record or other information pertaining to a subscriber to or customer of such service, excluding the contents of electronic communications and real-time location data, to an investigative or law-enforcement officer only pursuant to:

1. A subpoena issued by a grand jury of a court of the Commonwealth;
2. A search warrant issued by a magistrate, general district court, or circuit court;
3. A court order for such disclosure issued as provided in subsection B; or
4. The consent of the subscriber or customer to such disclosure.

B. A court shall issue an order for disclosure under this section only if the investigative or law-enforcement officer shows that there is reason to believe the records or other information sought are relevant and material to an ongoing criminal investigation, or the investigation of any missing child as defined in § [52-32](#), missing senior adult as defined in § [52-34.4](#), or an incapacitated person as defined in § [64.2-2000](#) who meets the definition of a missing senior adult except for the age requirement. Upon issuance of an order for disclosure under this section, the order and any written application or statement of facts may be sealed by the court for 90 days for good cause shown upon application of the attorney for the Commonwealth in an ex parte proceeding. The order and any written application or statement of facts may be sealed for additional 90-day periods for good cause shown upon subsequent application of the attorney for the Commonwealth in an ex parte proceeding. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify the order, if the information or records requested are unusually voluminous in nature or compliance with such order would otherwise cause an undue burden on such provider.

C. Except as provided in subsection D, a provider of electronic communication service or remote computing service, including a foreign corporation that provides such services, shall disclose the contents of electronic communications or real-time location data to an investigative or law-enforcement officer only pursuant to a search warrant issued by a magistrate, a juvenile and domestic relations district court, a general district court, or a circuit court, based upon complaint on oath supported by an affidavit as required in § [19.2-54](#), or judicial officer or court of any of the several states of the United States or its territories, or the District of Columbia when the warrant issued by such officer or such court complies with the provisions of subsection G. In the case of a search warrant directed to a foreign corporation, the affidavit shall state that the complainant believes that the records requested are actually or

constructively possessed by a foreign corporation that provides electronic communication service or remote computing service within the Commonwealth of Virginia. If satisfied that probable cause has been established for such belief and as required by Chapter 5 (§ [19.2-52](#) et seq.), the magistrate, the juvenile and domestic relations district court, the general district court, or the circuit court shall issue a warrant identifying those records to be searched for and commanding the person seeking such warrant to properly serve the warrant upon the foreign corporation.

D. A provider of electronic communication service or remote computing service, including a foreign corporation that provides such services, shall disclose a record or other information pertaining to a subscriber to or customer of such service, including real-time location data but excluding the contents of electronic communications, to an investigative or law-enforcement officer pursuant to an administrative subpoena issued pursuant to § [19.2-10.2](#) concerning a violation of § [18.2-374.1](#) or [18.2-374.1:1](#), former § [18.2-374.1:2](#), or § [18.2-374.3](#) when the information sought is relevant and material to an ongoing criminal investigation.

E. When disclosure of real-time location data is not prohibited by federal law, an investigative or law-enforcement officer may obtain real-time location data without a warrant in the following circumstances:

1. To respond to the user's call for emergency services;

2. With the informed, affirmative consent of the owner or user of the electronic device concerned if (i) the device is in his possession; (ii) the owner or user knows or believes that the device is in the possession of an employee or agent of the owner or user with the owner's or user's consent; or (iii) the owner or user knows or believes that the device has been taken by a third party without the consent of the owner or user;

3. With the informed, affirmative consent of the legal guardian or next of kin of the owner or user, if reasonably available, if the owner or user is reasonably believed to be deceased, is reported missing, or is unable to be contacted; or

4. If the investigative or law-enforcement officer reasonably believes that an emergency involving the immediate danger to a person requires the disclosure, without delay, of real-time location data concerning a specific person and that a warrant cannot be obtained in time to prevent the identified danger, and the possessor of the real-time location data believes, in good faith, that an emergency involving danger to a person requires disclosure without delay.

No later than three business days after seeking disclosure of real-time location data pursuant to this subsection, the investigative or law-enforcement officer seeking the information shall file with the appropriate court a written statement setting forth the facts giving rise to the emergency and the facts as to why the person whose real-time location data was sought is believed to be important in addressing the emergency.

F. In order to comply with the requirements of § [19.2-54](#), any search of the records of a foreign corporation shall be deemed to have been made in the same place wherein the search warrant was issued.

G. A Virginia corporation or other entity that provides electronic communication services or remote computing services to the general public, when properly served with a search warrant and affidavit in support of the warrant, issued by a judicial officer or court of any of the several states of the United States or its territories, or the District of Columbia with jurisdiction over the matter, to produce a record or other information pertaining to a subscriber to or customer of such service, including real-time location data, or the contents of electronic communications, or both, shall produce the record or other information, including real-time location data, or the contents of electronic communications as if that warrant had been issued by a Virginia court. The provisions of this subsection shall only apply to a record or other information, including real-time location data, or contents of electronic communications relating to the commission of a criminal offense that is substantially similar to (i) a violent felony as defined in § [17.1-805](#), (ii) an act of violence as defined in § [19.2-297.1](#), (iii) any offense for which registration is required pursuant to § [9.1-902](#), (iv) computer fraud pursuant to § [18.2-152.3](#), or (v) identity theft pursuant to § [18.2-186.3](#). The search warrant shall be enforced and executed in the Commonwealth as if it were a search warrant described in subsection C.

H. The provider of electronic communication service or remote computing service may verify the authenticity of the written reports or records that it discloses pursuant to this section, excluding the contents of electronic communications, by providing an affidavit from the custodian of those written reports or records or from a person to whom said custodian reports certifying that they are true and complete and that they are prepared in the regular course of business. When so authenticated, the written reports and records are admissible in evidence as a business records exception to the hearsay rule.

I. No cause of action shall lie in any court against a provider of a wire or electronic communication service or remote computing service or such provider's officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, administrative subpoena, or subpoena under this section or the provisions of subsection E.

J. A search warrant or administrative subpoena for the disclosure of real-time location data pursuant to this section shall require the provider to provide ongoing disclosure of such data for a reasonable period of time, not to exceed 30 days. A court may, for good cause shown, grant one or more extensions, not to exceed 30 days each.

*K. An investigative or law-enforcement officer shall not use any device to obtain electronic communications or collect real-time location data from an electronic device without first obtaining a search warrant authorizing the use of the device if, in order to obtain the contents of such electronic communications or such real-time location data from the provider of electronic communication service or remote computing service, such officer would be required to obtain a search warrant pursuant to this section. However, an investigative or law-enforcement officer may use such a device without first obtaining a search warrant under the circumstances set forth in subsection E. For purposes of subdivision E 4, the investigative or law-enforcement officer using such a device shall be considered to be the possessor of the real-time location data.*

L. For the purposes of this section:

"Electronic device" means a device that enables access to, or use of, an electronic communication service, remote computing service, or location information service, including a global positioning service or other mapping, locational, or directional information service.

"Foreign corporation" means any corporation or other entity, whose primary place of business is located outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of service agreement with a resident of the Commonwealth to be performed in whole or in part by either party in the Commonwealth, or a corporation that has been issued a certificate of authority pursuant to § [13.1-759](#) to transact business in the Commonwealth. The making of the contract or terms of service agreement or the issuance of a certificate of authority shall be considered to be the agreement of the foreign corporation or entity that a search warrant or subpoena, which has been properly served on it, has the same legal force and effect as if served personally within the Commonwealth.

"Properly served" means delivery of a search warrant or subpoena by hand, by United States mail, by commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its general manager in the Commonwealth, to any natural person designated by it as agent for the service of process, or if such corporation has designated a corporate agent, to any person named in the latest annual report filed pursuant to § [13.1-775](#).

"Real-time location data" means any data or information concerning the current location of an electronic device that, in whole or in part, is generated, derived from, or obtained by the operation of the device.

**Assault and battery against certain persons.** Amends provision making it a Class 6 felony to commit an assault or an assault and battery against judges, magistrates, law-enforcement officers, correctional officers, firefighters, emergency medical services personnel, and persons directly involved in the care, treatment, or supervision of certain inmates, juvenile offenders, and sexually violent predators when they are engaged in the performance of their public duties to state that the crime occurs regardless of where in the Commonwealth the public duties are performed. The bill provides that its provisions are declarative of existing law.

#### CHAPTER 196

An Act to amend and reenact § [18.2-57](#) of the Code of Virginia, relating to assault and battery; location of offense.

[H 1611]

Approved March 16, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [18.2-57](#) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-57](#). Assault and battery; penalty.

A. Any person who commits a simple assault or assault and battery is guilty of a Class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, color or national origin, the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.

B. However, if a person intentionally selects the person against whom an assault and battery resulting in bodily injury is committed because of his race, religious conviction, color or national origin, the person is guilty of a Class 6 felony, and the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.

C. In addition, if any person commits an assault or an assault and battery against another knowing or having reason to know that such other person is a judge, a magistrate, a law-enforcement officer as defined in subsection F, a correctional officer as defined in § [53.1-1](#), a person directly involved in the care, treatment, or supervision of inmates in the custody of the Department of Corrections or an employee of a local or regional correctional facility directly involved in the care, treatment, or supervision of inmates in the custody of the facility, a person directly involved in the care, treatment, or supervision of persons in the custody of or under the supervision of the Department of Juvenile Justice, an employee or other individual who provides control, care, or treatment of sexually violent predators committed to the custody of the Department of Behavioral Health and Developmental Services, a firefighter as defined in § [65.2-102](#), or a volunteer firefighter or any emergency medical services personnel member who is employed by or is a volunteer of an emergency medical services agency or as a member of a bona fide volunteer fire department or volunteer emergency medical services agency, regardless of whether a resolution has been adopted by the governing body of a political subdivision recognizing such firefighters or emergency medical services personnel as employees, engaged in the performance of his public duties *anywhere in the Commonwealth*, such person is guilty of a Class 6 felony, and, upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of six months.

Nothing in this subsection shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

D. In addition, if any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time employee of any public or private elementary or secondary school and is engaged in the performance of his duties as such, he is guilty of a Class 1 misdemeanor and the sentence of such person upon conviction shall include a sentence of 15 days in jail, two days of which shall be a mandatory minimum term of confinement. However, if the offense is committed by use of a firearm or other weapon prohibited on school

property pursuant to § [18.2-308.1](#), the person shall serve a mandatory minimum sentence of confinement of six months.

E. In addition, any person who commits a battery against another knowing or having reason to know that such individual is a health care provider as defined in § [8.01-581.1](#) who is engaged in the performance of his duties as an emergency health care provider in an emergency room of a hospital or clinic or on the premises of any other facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such person, upon conviction, shall include a term of confinement of 15 days in jail, two days of which shall be a mandatory minimum term of confinement.

F. As used in this section:

"Judge" means any justice or judge of a court of record of the Commonwealth including a judge designated under § [17.1-105](#), a judge under temporary recall under § [17.1-106](#), or a judge pro tempore under § [17.1-109](#), any member of the State Corporation Commission, or of the Virginia Workers' Compensation Commission, and any judge of a district court of the Commonwealth or any substitute judge of such district court.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § [10.1-115](#), any special agent of the Department of Alcoholic Beverage Control, conservation police officers appointed pursuant to § [29.1-200](#), and full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § [46.2-217](#), and such officer also includes jail officers in local and regional correctional facilities, all deputy sheriffs, whether assigned to law-enforcement duties, court services or local jail responsibilities, auxiliary police officers appointed or provided for pursuant to §§ [15.2-1731](#) and [15.2-1733](#), auxiliary deputy sheriffs appointed pursuant to § [15.2-1603](#), police officers of the Metropolitan Washington Airports Authority pursuant to § [5.1-158](#), and fire marshals appointed pursuant to § [27-30](#) when such fire marshals have police powers as set out in §§ [27-34.2](#) and [27-34.2:1](#).

"School security officer" means an individual who is employed by the local school board for the purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies and detaining persons violating the law or school board policies on school property, a school bus or at a school-sponsored activity and who is responsible solely for ensuring the safety, security and welfare of all students, faculty and staff in the assigned school.

G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any school security officer or full-time or part-time employee of any public or private elementary or secondary school while acting in the course and scope of his official capacity, any of the following: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within his control.

In determining whether a person was acting within the exceptions provided in this subsection, due deference shall be given to reasonable judgments that were made by a school security officer or full-time or part-time employee of any public or private elementary or secondary school at the time of the event.

2. That the provisions of this act are declarative of existing law.

**Cigarettes; possession with intent to distribute contraband; fraudulent purchase; penalties.** Lowers the felony threshold for possession with intent to distribute tax-paid cigarettes from 500 cartons to 200 cartons and creates a criminal offense and civil penalties for purchasing cigarettes using a forged business license, a forged or invalid Virginia sales and use tax exemption certificate, or a business license or sales and use tax exemption certificate obtained under false pretenses. This bill is a recommendation of the Virginia State Crime Commission and is identical to [SB 1231](#).

#### CHAPTER 273

*An Act to amend and reenact § [58.1-1017.1](#) of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 10 of Title 58.1 a section numbered [58.1-1017.3](#), relating to cigarettes; contraband; fraudulent purchase; penalties.*

[H 1807]

Approved March 17, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [58.1-1017.1](#) of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 10 of Title 58.1 a section numbered [58.1-1017.3](#) as follows:

§ [58.1-1017.1](#). Possession with intent to distribute tax-paid, contraband cigarettes; penalties.

Any person who possesses, with intent to distribute, more than 5,000 (25 cartons) but fewer than ~~100,000 (500 cartons)~~ 40,000 (200 cartons) tax-paid cigarettes is guilty of a Class 1 misdemeanor for a first offense and is guilty of a Class 6 felony for any second or subsequent offense. Any person who possesses, with intent to distribute, ~~100,000 (500 cartons)~~ 40,000 (200 cartons) or more tax-paid cigarettes is guilty of a Class 6 felony for a first offense and is guilty of a Class 5 felony for a second or subsequent offense. Additionally, any person who violates the provisions of this section shall be assessed a civil penalty of (i) \$2.50 per pack, but no less than \$5,000, for a first offense; (ii) \$5 per pack, but no less than \$10,000, for a second such offense committed within a 36-month period; and (iii) \$10 per pack, but no less than \$50,000, for a third or subsequent such offense committed within a 36-month period. The civil penalties shall be assessed and collected by the Department as other taxes are collected.

The provisions of this section shall not apply to an authorized holder.

§ [58.1-1017.3](#). *Fraudulent purchase of cigarettes; penalties.*

*Any person who purchases 5,000 (25 cartons) cigarettes or fewer using a forged business license, a business license obtained under false pretenses, a forged or invalid Virginia sales and use tax exemption certificate, or a Virginia sales and use tax exemption certificate obtained under false pretenses is guilty of a Class 1 misdemeanor for a first offense and a Class 6 felony for a second or subsequent offense. Any person who purchases more than 5,000 (25 cartons) cigarettes using a forged business license, a business license obtained under false pretenses, a forged or invalid Virginia sales and use tax exemption certificate, or a Virginia sales and use tax exemption certificate obtained under false pretenses is guilty of a Class 6 felony for a first offense and a Class 5 felony for a second or subsequent offense. Additionally, any person who violates the provisions of this section shall be assessed a civil penalty of (i) \$2.50 per pack, but no less than \$5,000, for a first offense; (ii) \$5 per pack, but no less than \$10,000, for a second such offense committed within a 36-month period; and (iii) \$10 per pack, but no less than \$50,000, for a third or subsequent such offense committed within a 36-month period. The civil penalties shall be assessed and collected by the Department as other taxes are collected.*

*The provisions of this section shall not preclude prosecution under any other statute.*

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2014, Special Session I, requires

the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

**Scheduling of certain controlled substances.** Removes hydrocodone combination products from Schedule III and classifies alfaxalone, suvorexant, and tramadol as Schedule IV controlled substances.

**CHAPTER 303**

*An Act to amend and reenact §§ [54.1-3450](#) and [54.1-3452](#) of the Code of Virginia, relating to scheduling of certain controlled substances.*

[H 1839]

Approved March 17, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ [54.1-3450](#) and [54.1-3452](#) of the Code of Virginia are amended and reenacted as follows:

§ [54.1-3450](#). Schedule III.

The controlled substances listed in this section are included in Schedule III:

1. Unless specifically exempted or listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules;

Any compound, mixture or preparation containing amobarbital, secobarbital, or pentobarbital or any salt of amobarbital, secobarbital, or pentobarbital and one or more other active medicinal ingredients which are not listed in Schedules II through V;

Any suppository dosage form containing amobarbital, secobarbital, or pentobarbital or any salt of amobarbital, secobarbital, or pentobarbital and approved by the Food and Drug Administration for marketing only as a suppository;

Chlorhexadol;

Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355);

Embutramide;

Ketamine, its salts, isomers, and salts of isomers (some other names: [+]-2-[2-chlorophenyl]-2-[methylamino]-cyclohexanone);

Lysergic acid;

Lysergic acid amide;

Methyprylon;

Perampanel [2-(2-oxo-1-phenyl-5-pyridin-2-yl-1,2-dihydropyridin-3-yl) benxonitrile], including its salts, isomers, and salts of isomers;

Sulfondiethylmethane;

Sulfonethylmethane;

Sulfonmethane; and

Tiletamine-zolazepam combination product or any salt thereof.

2. Nalorphine.

3. Unless specifically excepted or unless listed in another schedule:

a. Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts thereof:

Buprenorphine.

b. Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

~~Not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;~~

~~Not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;~~

Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;

Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Benzphetamine;

Chlorphentermine;

Clortermine;

Phendimetrazine.

5. The Board may except by regulation any compound, mixture, or preparation containing any stimulation or depressant substance listed in subsection A from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

6. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation:

Anabolic steroids, including, but not limited to:

3beta,17-dihydroxy-5a-androstane;

3alpha,17beta-dihydroxy-5a-androstane;

5alpha-androstan-3,17-dione;

1-androstenediol (3beta,17beta-dihydroxy-5alpha-androst-1-ene);

1-androstenediol (3alpha,17beta-dihydroxy-5alpha-androst-1-ene);

4-androstenediol (3beta,17beta-dihydroxy-androst-4-ene);

5-androstenediol (3beta,17beta-dihydroxy-androst-5-ene);

1-androstenedione ([5alpha]-androst-1-en-3,17-dione);

4-androstenedione (androst-4-en-3,17-dione);

5-androstenedione (androst-5-en-3,17-dione);

Bolasterone (7alpha,17alpha-dimethyl-17beta-hydroxyandrost-4-en-3-one);

Boldenone (Dehydrotestosterone)(17beta-hydroxyandrost-1,4,-diene-3-one);

Boldione (androsta-1, 4-diene-3, 17-dione);

Calusterone (7beta,17alpha-dimethyl-17beta-hydroxyandrost-4-en-3-one);

Clostebol (4-Chlorotestosterone)(Chlorotestosterone)(4-chloro-17beta-hydroxyandrost-4-en-3-one);

Dehydrochloromethyltestosterone (4-chloro-17beta-hydroxy-17alpha-methyl-androst-1,4-dien-3-one);

Delta 1-dihydrotestosterone (1-testosterone)(17beta-hydroxy-5alpha-androst-1-en-3-one);

Desoxymethyltestosterone (madol)(17alpha-methyl-5alpha-androst-2-en-17beta-ol);

Dromostanolone (Drostanolone)(17beta-hydroxy-2alpha-methyl-5alpha-androstan-3-one);

Ethylestrenol (17alpha-ethyl-17beta-hydroxyestr-4-ene);

Fluoxymesterone (9-fluoro-17alpha-methyl-11beta,17beta-dihydroxyandrost-4-en-3-one);

Formyldienolone (Formebolone)(2-formyl-17alpha-methyl-11alpha,17beta-dihydroxyandrost-1,4-dien-3-one);

Furazabol (17alpha-methyl-17beta-hydroxyandrostando[2,3-c]-furazan);

13-beta-ethyl-17alpha-hydroxygon-4-en-3-one;

4-hydroxytestosterone (4,17beta-dihydroxy-androst-4-en-3-one);

4-hydroxy-19-nortestosterone (4,17beta-dihydroxy-estr-4-en-3-one);

Mestanolone (17alpha-methyl-17beta-hydroxy-5-androstan-3-one);

Mesterolone (1alpha-methyl-17beta-hydroxy-[5alpha]-androstan-3-one);

Methandriol (methylandrostenediol)(17alpha-methyl-3beta,17beta-dihydroxyandrost-5-ene);

Methandrostenolone (Methandienone)(Dehydromethyltestosterone)(17alpha-methyl-17beta-hydroxyandrost-1,4-dien-3-one);

Methasterone (2alpha,17alpha-dimethyl-5alpha-androstan-17beta-ol-3-one);

Methenolone (1-methyl-17beta-hydroxy-5alpha-androst-1-en-3-one);

17alpha-methyl-3beta,17beta-dihydroxy-5a-androstane;

17alpha-methyl-3alpha,17beta-dihydroxy-5a-androstane;

17alpha-methyl-3beta,17beta-dihydroxyandrost-4-ene);

17alpha-methyl-4-hydroxynandrolone (17alpha-methyl-4-hydroxy-17beta-hydroxyestr-4-en-3-one);

Methyldienolone (17alpha-methyl-17beta-hydroxyestra-4,9(10)-dien-3-one);

Methyltrienolone (17alpha-methyl-17beta-hydroxyestra-4,9-11-trien-3-one);

17-Methyltestosterone (Methyltestosterone)(17alpha-methyl-17beta-hydroxyandrost-4-en-3-one);

Mibolerone (7alpha,17alpha-dimethyl-17beta-hydroxyestr-4-en-3-one);

17alpha-methyl-delta1-dihydrotestosterone (17beta-hydroxy-17alpha-methyl-5alpha-androst-1-en-3-one)(17-alpha-methyl-1-testosterone);

Nandrolone (19-Nortestosterone)(17beta-hydroxyestr-4-en-3-one);

19-nor-4,9(10)-androstadienedione(estra-4,9(10)-diene-3,17-dione);

19-nor-4-androstenediol (3beta,17beta-dihydroxyestr-4-ene);

19-nor-4-androstenediol (3alpha,17beta-dihydroxyestr-4-ene);

19-nor-5-androstenediol (3beta,17beta-dihydroxyestr-5-ene);

19-nor-5-androstenediol (3alpha,17beta-dihydroxyestr-5-ene);

19-nor-4-androstenedione (estr-4-en-3,17-dione);

19-nor-5-androstenedione (estr-5-en-3,17-dione);

Norbolethone (13beta,17alpha-diethyl-17beta-hydroxygon-4-en-3-one);

Norclostebol (4-chloro-17beta-hydroxyestr-4-en-3-one);

Norethandrolone (17alpha-ethyl-17beta-hydroxyestr-4-en-3-one);

Normethandrolone (17alpha-methyl-17beta-hydroxyestr-4-en-3-one);

Oxandrolone (17alpha-methyl-17beta-hydroxy-2-oxa-[5alpha]-androstan-3-one);

Oxymesterone (Oxymestron)(17alpha-methyl-4,17beta-dihydroxyandrost-4-en-3-one);

Oxymetholone (Anasterone)(17alpha-methyl-2-hydroxymethylene-17beta-hydroxy-[5alpha]-androstan-3-one);

Prostanozol (17beta-hydroxy-5alpha-androstano[3,2-c]pyrazole);

Stanolone (4-Dihydrotestosterone)(Dihydrotestosterone)(17beta-hydroxy-androstan-3-one);

Stanozolol (Androstanazole)(17alpha-methyl-17beta-hydroxy-[5alpha]-androst-2-eno[3,2-c]-pyrazole);

Stenbolone (17beta-hydroxy-2-methyl-[5alpha]-androst-1-en-3-one);

Testolactone (1-Dehydrotestololactone)(13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

Testosterone (17beta-hydroxyandrost-4-en-3-one);

Tetrahydrogestrinone (13beta,17alpha-diethyl-17beta-hydroxygon-4,9,11-trien-3-one);

Trenbolone (Trienbolone)(Trienolone)(17beta-hydroxyestr-4,9,11-trien-3-one); and

Any salt, ester, or ether of a drug or substance described or listed in this paragraph. However, such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the United States Secretary of Health and Human Services for such administration. If any person prescribes, dispenses, or distributes any such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this subsection.

7. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration.

§ [54.1-3452](#). Schedule IV.

The controlled substances listed in this section are included in Schedule IV unless specifically excepted or listed in another schedule:

1. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

*Alfaxalone (5[alpha]-pregnan-3[alpha]-ol-11,20-dione), previously spelled "alphaxalone," including its salts, isomers, and salts of isomers;*

Alprazolam;

Barbital;

Bromazepam;

Camazepam;

Carisoprodol;

Chloral betaine;

Chloral hydrate;

Chlordiazepoxide;

Clobazam;

Clonazepam;

Clorazepate;

Clotiazepam;

Cloxazolam;

Delorazepam;

Diazepam;

Dichloralphenazone;

Estazolam;

Ethchlorvynol;

Ethinamate;

Ethyl loflazepate;

Fludiazepam;  
Flunitrazepam;  
Flurazepam;  
Fospropofol;  
Halazepam;  
Haloxazolam;  
Ketazolam;  
Loprazolam;  
Lorazepam;  
Lormetazepam;  
Mebutamate;  
Medazepam;  
Methohexital;  
Meprobamate;  
Methylphenobarbital;  
Midazolam;  
Nimetazepam;  
Nitrazepam;  
Nordiazepam;  
Oxazepam;  
Oxazolam;  
Paraldehyde;  
Petrichloral;  
Phenobarbital;  
Pinazepam;  
Prazepam;

Quazepam;

*Suvorexant* ([*(7R)*-4-(5-chloro-1,3-benzoxazol-2-yl)-7-methyl-1,4-diazepan-1-yl][5-methyl-2-(2*H*-1,2,3-triazol-2-yl)phenyl]methanone), including its salts, isomers, and salts of isomers;

Temazepam;

Tetrazepam;

Triazolam;

Zaleplon;

Zolpidem;

Zopiclone.

2. Any compound, mixture or preparation which contains any quantity of the following substances including any salts or isomers thereof:

Fenfluramine;

Lorcaserin.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Cathine (+)-norpseudoephedrine;

Diethylpropion;

Fencamfamin;

Fenproporex;

Mazindol;

Mefenorex;

Modafinil;

Phentermine;

Pemoline (including organometallic complexes and chelates thereof);

Pipradrol;

Sibutramine;

SPA (-)-1-dimethylamino-1, 2-diphenylethane.

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxy butane);

Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

*2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers, and salts of such isomers, including tramadol.*

5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including their salts:

Butorphanol (including its optical isomers);

Pentazocine.

6. The Board may except by regulation any compound, mixture, or preparation containing any depressant substance listed in subdivision 1 from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2014, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

**Enticing persons to dwelling house to commit certain crimes; penalty.** Provides that a person who commits certain specified crimes, including capital murder, first and second degree murder, murder of a pregnant woman, abduction with intent to extort money or for immoral purposes, aggravated malicious wounding, robbery, rape, forcible sodomy, or object sexual penetration, within a dwelling house and who, with the intent to commit such crime, enticed, solicited, requested, or otherwise caused the victim to enter the dwelling house is guilty of a separate and distinct Class 6 felony.

#### CHAPTER 392

*An Act to amend the Code of Virginia by adding in Article 3 of Chapter 4 of Title 18.2 a section numbered [18.2-50.3](#), relating to enticing, etc., another into a dwelling house with intent to commit certain felonies; penalty.*

[H 1493]

Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 4 of Title 18.2 a section numbered [18.2-50.3](#) as follows:

*§ [18.2-50.3](#). Enticing, etc., another into a dwelling house with intent to commit certain felonies; penalty.*

*Any person who commits a violation of § [18.2-31](#), [18.2-32](#), [18.2-32.1](#), [18.2-48](#), [18.2-51.2](#), [18.2-58](#), [18.2-61](#), [18.2-67.1](#), or [18.2-67.2](#) within a dwelling house and who, with the intent to commit a felony listed in this section, enticed, solicited, requested, or otherwise caused the victim to enter such dwelling house is guilty of a Class 6 felony. A violation of this section is a separate and distinct felony.*

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2014, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

**Pandering; minors; penalty.** Increases from a Class 4 felony to a Class 3 felony the penalty for pandering involving a minor.

#### CHAPTER 395

*An Act to amend and reenact § [18.2-355](#) of the Code of Virginia, relating to pandering; minors.*

[H 2040]

Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [18.2-355](#) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-355](#). Taking, detaining, etc., person for prostitution, etc., or consenting thereto; human trafficking.

Any person who:

- (1) For purposes of prostitution or unlawful sexual intercourse, takes any person into, or persuades, encourages or causes any person to enter, a bawdy place, or takes or causes such person to be taken to any place against his or her will for such purposes; or
- (2) Takes or detains a person against his or her will with the intent to compel such person, by force, threats, persuasions, menace or duress, to marry him or her or to marry any other person, or to be defiled; or
- (3) Being parent, guardian, legal custodian or one standing in loco parentis of a person, consents to such person being taken or detained by any person for the purpose of prostitution or unlawful sexual intercourse; or
- (4) For purposes of prostitution, takes any minor into, or persuades, encourages, or causes any minor to enter, a bawdy place, or takes or causes such person to be taken to any place for such purposes; is guilty of pandering, ~~and shall be guilty of.~~

*A violation of subdivision (1), (2), or (3) is punishable as a Class 4 felony. A violation of subdivision (4) is punishable as a Class 3 felony.*

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2014, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

**Dissemination, etc., of criminal history record information; civil action.** Creates a civil action against any person who disseminates, publishes, or maintains or causes to be disseminated, published, or maintained the criminal history record information of an individual pertaining to that individual's charge or arrest for a criminal offense and solicits, requests, or accepts money or other thing of value for removing such information. Such person shall be liable to the individual who is the subject of the information for actual damages or \$500, whichever is greater, in addition to reasonable attorney fees and costs.

**CHAPTER 414**

*An Act to amend the Code of Virginia by adding a section numbered [8.01-40.3](#), relating to the dissemination, etc., of criminal history record information; civil action.*

[S 720]

Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered [8.01-40.3](#) as follows:

§ [8.01-40.3](#). *Unauthorized dissemination, etc., of criminal history record information; civil action.*

*Any person who disseminates, publishes, or maintains or causes to be disseminated, published, or maintained the criminal history record information as defined in § [9.1-101](#) of an individual pertaining to that individual's charge or arrest for a criminal offense and solicits, requests, or accepts money or other thing of value for removing such criminal history record information shall be liable to the individual who is the subject of the information for actual damages or \$500, whichever is greater, in addition to reasonable attorney fees and costs.*

**Dissemination, etc., of criminal history record; civil action.** Provides that a person who disseminates, publishes, or maintains or causes to be disseminated, published, or maintained the criminal history record information of an individual pertaining to that individual's charge or arrest for a criminal offense and solicits, requests, or accepts money or other thing of value for removing such criminal history record information shall be liable to the individual who is the subject of the information for actual damages or \$500, whichever is greater, in addition to reasonable attorney fees and costs. The bill specifies that liability is not imposed on an interactive computer service for content provided by another person or for any speech protected by Article I, Section 12 of the Constitution of Virginia.

#### CHAPTER 415

*An Act to amend the Code of Virginia by adding a section numbered [8.01-40.3](#), relating to the dissemination, etc., of criminal history record information; civil actions.*

[H 1764]

Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered [8.01-40.3](#) as follows:

§ [8.01-40.3](#). *Unauthorized dissemination, etc., of criminal history record information; civil actions.*

*A. Any person who disseminates, publishes, or maintains or causes to be disseminated, published, or maintained the criminal history record information of an individual pertaining to that individual's charge or arrest for a criminal offense and solicits, requests, or accepts money or other thing of value for removing such criminal history record information shall be liable to the individual who is the subject of the information for actual damages or \$500, whichever is greater, in addition to reasonable attorney fees and costs.*

*B. Nothing in this section shall be construed to impose liability on:*

*1. An interactive computer service, as defined in 47 U.S.C. § 230(f), for content provided by another person.*

*2. Any speech protected by Article I, Section 12 of the Constitution of Virginia.*

*C. As used in this section, "criminal history record information" means the same as that term is defined in § [9.1-101](#).*

**Safe reporting of overdoses.** Establishes an affirmative defense to prosecution of an individual for (i) simple possession of a controlled substance, marijuana, or controlled paraphernalia; (ii) intoxication in public; or (iii) the unlawful purchase, possession, or consumption of alcohol if such individual sought or obtained emergency medical attention for himself or for another individual because of a drug-related or alcohol-related overdose and if the evidence for the charge was obtained as a result of the individual seeking or obtaining emergency medical attention. The bill provides that the affirmative defense may only be invoked by an individual who (a) remains at the scene of the overdose or at any location to which he is transported for emergency medical attention until a law-enforcement officer responds to the report of an overdose or, if no law-enforcement officer is present at either the scene or the other location, cooperates with law enforcement, (b) identifies himself to the responding law-enforcement officer, and (c) cooperates, upon request, with any criminal investigation reasonably related to the drug or alcohol that resulted in the overdose. No individual may assert this affirmative defense if the emergency medical attention sought or obtained was during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest. This bill is identical to [SB 892](#).

#### CHAPTER 436

An Act to amend the Code of Virginia by adding a section numbered [18.2-251.03](#), relating to safe reporting of overdoses.

[H 1500]

Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered [18.2-251.03](#) as follows:

§ [18.2-251.03](#). *Safe reporting of overdoses.*

*A. For purposes of this section, "overdose" means a life-threatening condition resulting from the consumption or use of a controlled substance, alcohol, or any combination of such substances.*

*B. It shall be an affirmative defense to prosecution of an individual for the unlawful purchase, possession, or consumption of alcohol pursuant to § [4.1-305](#), possession of a controlled substance pursuant to § [18.2-250](#), possession of marijuana pursuant to § [18.2-250.1](#), intoxication in public pursuant to § [18.2-388](#), or possession of controlled paraphernalia pursuant to § [54.1-3466](#) if:*

*1. Such individual, in good faith, seeks or obtains emergency medical attention for himself, if he is experiencing an overdose, or for another individual, if such other individual is experiencing an overdose, by contemporaneously reporting such overdose to a firefighter, as defined in § [65.2-102](#), emergency medical services personnel, as defined in § [32.1-111.1](#), a law-enforcement officer, as defined in § [9.1-101](#), or an emergency 911 system;*

*2. Such individual remains at the scene of the overdose or at any alternative location to which he or the person requiring emergency medical attention has been transported until a law-enforcement officer responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;*

*3. Such individual identifies himself to the law-enforcement officer who responds to the report of the overdose;*

*4. If requested by a law-enforcement officer, such individual substantially cooperates in any investigation of any criminal offense reasonably related to the controlled substance, alcohol, or combination of such substances that resulted in the overdose; and*

*5. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of the individual seeking or obtaining emergency medical attention.*

*C. No individual may assert the affirmative defense provided for in this section if the person sought or obtained emergency medical attention for himself or another individual during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.*

*D. This section does not establish an affirmative defense for any individual or offense other than those listed in subsection B.*

**Creation of unlawful images; venue.** Provides that venue for prosecution of the crime of creating unlawful images of a nonconsenting person is the same as venue for the Virginia Computer Crimes Act. The bill also clarifies a venue provision in the Virginia Computer Crimes Act.

**CHAPTER 423**

*An Act to amend and reenact § [19.2-249.2](#) of the Code of Virginia, relating to venue for prosecution of computer and other crimes.*

[S 709]

Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [19.2-249.2](#) of the Code of Virginia is amended and reenacted as follows:

§ [19.2-249.2](#). Venue for prosecution of computer and other crimes.

For the purpose of venue ~~under, any violation of the Virginia Computer Crimes Act (§ [18.2-152.1](#) et seq.), any violation of the article or § [18.2-386.1](#)~~ shall be considered to have been committed in any county or city:

1. In which any act was performed in furtherance of any course of conduct that violated ~~this article~~ *any provision listed above*;
2. In which the owner has his principal place of business in the Commonwealth;
3. In which any offender had control or possession of any proceeds of the violation or of any books, records, documents, property, financial instrument, computer software, computer program, computer data, or other material or objects that were used in furtherance of the violation;
4. From which, to which, or through which any access to a computer or computer network was made whether by wires, electromagnetic waves, microwaves, optics or any other means of communication;
5. In which the offender resides; or
6. In which any computer that is an object or an instrument of the violation is located at the time of the alleged offense.

**Child pornography; obscenity; penalties.** Adds a mens rea of "knowingly" for the offenses of (i) reproducing child pornography and (ii) soliciting child pornography to gain entry to a group and removes the requirement of lascivious intent for these offenses. The bill also amends a penalty section that applies to the obscenity article to correctly reflect the existing penalties. This bill is a recommendation of the Virginia State Crime Commission.

#### CHAPTER 428

An Act to amend and reenact §§ [18.2-374.1:1](#) and [18.2-381](#) of the Code of Virginia, relating to child pornography and obscenity offenses; penalties.

[S 1056]

Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ [18.2-374.1:1](#) and [18.2-381](#) of the Code of Virginia are amended and reenacted as follows:

§ [18.2-374.1:1](#). Possession, reproduction, distribution, solicitation, and facilitation of child pornography; penalty.

A. Any person who knowingly possesses child pornography is guilty of a Class 6 felony.

B. Any person who commits a second or subsequent violation of subsection A is guilty of a Class 5 felony.

C. Any person who *knowingly* (i) reproduces by any means, including by computer, sells, gives away, distributes, electronically transmits, displays ~~with lascivious intent~~, purchases, or possesses with intent to sell, give away, distribute, transmit, or display child pornography ~~with lascivious intent~~ or (ii) commands, entreats, or otherwise attempts to persuade another person to send, submit, transfer or provide to him any child pornography in order to gain entry into a group, association, or assembly of persons engaged in trading or sharing child pornography shall be punished by not less than five years nor more than 20 years in a state correctional facility. Any person who commits a second or subsequent violation under this subsection shall be punished by a term of imprisonment of not less than five years nor more than 20 years in a state correctional facility, five years of which shall be a mandatory minimum term of imprisonment. The mandatory minimum terms of imprisonment prescribed for violations of this section shall be served consecutively with any other sentence.

D. Any person who intentionally operates an Internet website for the purpose of facilitating the payment for access to child pornography is guilty of a Class 4 felony.

E. All child pornography shall be subject to lawful seizure and forfeiture pursuant to § [19.2-386.31](#).

F. For purposes of this section it may be inferred by text, title or appearance that a person who is depicted as or presents the appearance of being less than 18 years of age in sexually explicit visual material is less than 18 years of age.

G. Venue for a prosecution under this section may lie in the jurisdiction where the unlawful act occurs or where any child pornography is produced, reproduced, found, stored, received, or possessed in violation of this section.

H. The provisions of this section shall not apply to any such material that is possessed for a bona fide medical, scientific, governmental, law-enforcement, or judicial purpose by a physician, psychologist, scientist, attorney, employee of a law-enforcement agency, judge, or clerk who possesses such material in the course of conducting his professional duties as such.

§ [18.2-381](#). Punishment for subsequent offenses; additional penalty for owner.

Any person, firm, association or corporation convicted of a second or other subsequent offense under ~~§§~~ § [18.2-374](#) through [18.2-375](#), [18.2-376](#), [18.2-377](#), [18.2-378](#), or [18.2-379](#) shall be ~~is~~ guilty of a Class 6 felony. However, if the

person, firm, association or corporation convicted of such subsequent offense is the owner of the business establishment where each of the offenses occurred, a fine of not more than \$10,000 shall be imposed in addition to the penalties otherwise prescribed by this section.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2014, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

**Drugs forfeited to law enforcement; research and training.** Amends the provision that allows seized drugs to be forfeited to a law-enforcement agency for research and training purposes pursuant to a court order to require the law-enforcement agency to destroy such drugs when they are no longer needed for research and training purposes; under current law, drugs must be destroyed within 12 months of being obtained.

**CHAPTER 429**

*An Act to amend and reenact § [19.2-386.23](#) of the Code of Virginia, relating to disposal of seized drugs; law-enforcement training and research.*

[S 1241]

Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [19.2-386.23](#) of the Code of Virginia is amended and reenacted as follows:

§ [19.2-386.23](#). Disposal of seized controlled substances, marijuana, and paraphernalia.

A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer or have been seized in connection with violations of Chapter 7 (§ [18.2-247](#) et seq.) of Title 18.2, shall be forfeited and disposed of as follows:

1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State Police, or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of any such substance or paraphernalia to the Department of Forensic Science, the Department of State Police, or to such police department or sheriff's office for research and training purposes and for destruction pursuant to regulations of the United States Department of Justice Drug Enforcement Administration and of the Board of Pharmacy once these purposes have been fulfilled.

2. In the event no application is made under subdivision 1 ~~of this subsection~~, the court shall order the destruction of all such substances or paraphernalia, which order shall state the existence and nature of the substance or paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed. However, the court may order that paraphernalia identified in subdivision 5 of § [18.2-265.1](#) not be destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need for the property and an ability to put the property to a lawful and publicly beneficial use. A return under oath, reporting the time, place and manner of destruction shall be made to the court by the officer to whom the order is directed. A copy of the order and affidavit shall be made a part of the record of any criminal prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter, be prima facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is given or otherwise comes into possession of any such substances or paraphernalia that are not evidence in a trial in the Commonwealth, the chief law-enforcement officer of the agency or his designee may, with the written consent of the appropriate attorney for the Commonwealth, order destruction of same; provided that a statement under oath, reporting a description of the substances and paraphernalia destroyed and the time, place and manner of destruction, is made to the chief law-enforcement officer by the officer to whom the order is directed.

B. No such substance or paraphernalia used or to be used in a criminal prosecution under Chapter 7 (§ [18.2-247](#) et seq.) of Title 18.2 shall be disposed of as provided by this section until all rights of appeal have been exhausted, except as provided in § [19.2-386.24](#).

C. The amount of any specific controlled substance, or imitation controlled substance, retained by any law-enforcement agency pursuant to a court order issued under this section shall not exceed five pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled substances, imitation controlled substances,

or marijuana, shall certify that the amount requested shall not result in the requesting agency's exceeding the limits allowed by this subsection.

D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an inventory of such substance on a monthly basis, which shall include a description and weight of the substance, and (ii) destroy such substance ~~within 12 months of obtaining it through a court order for use in~~ *pursuant to subdivision A 1 when no longer needed for research and training purposes*. A written report outlining the details of the inventory shall be made to the chief law-enforcement officer of the agency within 10 days of the completion of the inventory, and the agency shall detail the substances that were used for *research and training* pursuant to a court order in the immediately preceding fiscal year. Destruction of such substance shall be certified to the court along with a statement prepared under oath, reporting a description of the substance destroyed, and the time, place, and manner of destruction.

**Search warrants; computers, networks, and other electronic devices.** Clarifies that a search warrant that authorizes the lawful seizure of digital evidence from a computer, computer network, or other device containing electronic or digital information includes the search and seizure of the physical components and the electronic or digital information contained in such computer, computer network, or other device. The bill also provides that any search, including the search of any computer, computer network, or other device, may be conducted in any location and not just the location where the evidence was seized. The bill provides that its provisions are declaratory of existing law.

#### CHAPTER 501

*An Act to amend and reenact § 19.2-53 of the Code of Virginia, relating to search warrants for computers, computer networks, and other electronic devices.*

[S 1307]

Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [19.2-53](#) of the Code of Virginia is amended and reenacted as follows:

§ [19.2-53](#). What may be searched and seized.

A. Search warrants may be issued for the search of or for specified places, things or persons, and seizure therefrom of the following things as specified in the warrant:

~~(1)~~-1. Weapons or other objects used in the commission of crime;

~~(2)~~-2. Articles or things the sale or possession of which is unlawful;

~~(3)~~-3. Stolen property or the fruits of any crime;

~~(4)~~-4. Any object, thing, or person, including without limitation, documents, books, papers, records or body fluids, constituting evidence of the commission of crime.

Notwithstanding any other provision in this chapter to the contrary, no search warrant may be issued as a substitute for a witness subpoena.

*B. Any search warrant issued for the search and seizure of a computer, computer network, or other device containing electronic or digital information shall be deemed to include the search and seizure of the physical components and the electronic or digital information contained in any such computer, computer network, or other device.*

*C. Any search, including the search of the contents of any computer, computer network, or other device conducted pursuant to subsection B, may be conducted in any location and is not limited to the location where the evidence was seized.*

2. That this act is declaratory of existing law.

**Administrative subpoenas; electronic communication services nondisclosure of subpoena.** Authorizes the Attorney General, as attorneys for the Commonwealth are currently authorized, to issue administrative subpoenas to obtain certain records and other information from electronic communication service and remote computing service providers if relevant to a law-enforcement investigation of certain pornography, abduction, and prostitution crimes. The bill requires such subpoenas to contain a provision ordering the service provider not to notify or disclose the existence of the subpoena to another person, other than an attorney to obtain legal advice, for a period of 30 days after the date on which the service provider responds to the subpoena if the attorney for the Commonwealth or Attorney General makes written certification that there is reason to believe that the victim is under the age of 18 and that the disclosure of the existence of the subpoena will endanger the life or physical safety of an individual; lead to flight from prosecution, the destruction of or tampering with evidence, or the intimidation of potential witnesses; or otherwise seriously jeopardize an investigation. This bill is identical to [SB 919](#).

#### CHAPTER 544

*An Act to amend and reenact § 19.2-10.2 of the Code of Virginia, relating to administrative subpoenas; electronic communication service or remote computing service; sealing.*

[H 1946]

Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [19.2-10.2](#) of the Code of Virginia is amended and reenacted as follows:

§ [19.2-10.2](#). Administrative subpoena issued for record from provider of electronic communication service or remote computing service.

A. A provider of electronic communication service or remote computing service that is transacting or has transacted any business in the Commonwealth shall disclose a record or other information pertaining to a subscriber to or customer of such service, excluding the contents of electronic communications as required by § [19.2-70.3](#), to an attorney for the Commonwealth *or the Attorney General* pursuant to an administrative subpoena issued under this section.

1. In order to obtain such records or other information, the attorney for the Commonwealth *or the Attorney General* shall certify on the face of the subpoena that there is reason to believe that the records or other information being sought are relevant to a legitimate law-enforcement investigation concerning violations of §§ [18.2-47](#), [18.2-48](#), [18.2-49](#), [18.2-346](#), [18.2-347](#), [18.2-348](#), [18.2-349](#), [18.2-355](#), [18.2-356](#), [18.2-357](#), [18.2-374.1](#), and [18.2-374.1:1](#), former § [18.2-374.1:2](#), and § [18.2-374.3](#).

2. *Upon written certification by the attorney for the Commonwealth or the Attorney General that there is a reason to believe that the victim is under the age of 18 and that notification or disclosure of the existence of the subpoena will endanger the life or physical safety of an individual, or lead to flight from prosecution, the destruction of or tampering with evidence, the intimidation of potential witnesses, or otherwise seriously jeopardize an investigation, the subpoena shall include a provision ordering the service provider not to notify or disclose the existence of the subpoena to another person, other than an attorney to obtain legal advice, for a period of 30 days after the date on which the service provider responds to the subpoena.*

3. On a motion made promptly by the electronic communication service or remote computing service provider, a court of competent jurisdiction may quash or modify the administrative subpoena if the records or other information requested are unusually voluminous in nature or if compliance with the subpoena would otherwise cause an undue burden on the service provider.

B. All records or other information received by an attorney for the Commonwealth *or the Attorney General* pursuant to an administrative subpoena issued under this section shall be used only for a reasonable length of time not to exceed 30 days and only for a legitimate law-enforcement purpose. Upon completion of the investigation, the

records or other information held by the attorney for the Commonwealth *or the Attorney General* shall be destroyed if no prosecution is initiated. *The existence of such a subpoena shall be disclosed upon motion of an accused.*

C. No cause of action shall lie in any court against an electronic communication service or remote computing service provider, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of an administrative subpoena issued under this section.

D. Records or other information pertaining to a subscriber to or customer of such service means name, address, local and long distance telephone connection records, or records of session times and durations, length of service, including start date, and types of service utilized, telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address, and means and source of payment for such service.

E. Nothing in this section shall require the disclosure of information in violation of any federal law.

**Indecent liberties; venue.** Provides that the venue provisions for taking indecent liberties with a child by a person in a custodial or supervisory relationship will be the same as those for the crime of taking indecent liberties with a child when there is no custodial or supervisory relationship.

#### CHAPTER 555

*An Act to amend and reenact § [18.2-359](#) of the Code of Virginia, relating to venue for certain sex crimes.*

[S 915]

Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [18.2-359](#) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-359](#). Venue for criminal sexual assault or where any person transported for criminal sexual assault, attempted criminal sexual assault, or purposes of unlawful sexual intercourse, crimes against nature, and indecent liberties with children; venue for such crimes when coupled with a violent felony.

A. Any person transporting or attempting to transport through or across the Commonwealth any person for the purposes of unlawful sexual intercourse, anal intercourse, cunnilingus, fellatio, or anilingus or prostitution, or for the purpose of committing any crime specified in § [18.2-361](#)~~–0F~~, [18.2-370](#), or [18.2-370.1](#), or for the purposes of committing or attempting to commit criminal sexual assault under Article 7 (§ [18.2-61](#) et seq.) of Chapter 4, may be presented, indicted, tried, and convicted in any county or city in which any part of such transportation occurred.

B. Venue for the trial of any person charged with committing or attempting to commit any crime specified in § [18.2-361](#)~~–0F~~, [18.2-370](#), or [18.2-370.1](#), or sexual assault under Article 7 (§ [18.2-61](#) et seq.) of Chapter 4 may be had in the county or city in which such crime is alleged to have occurred or, with the concurrence of the attorney for the Commonwealth in the county or city in which the crime is alleged to have occurred, in any county or city through which the victim was transported by the defendant prior to the commission of such offense.

C. Venue for the trial of any person charged with committing or attempting to commit criminal sexual assault under Article 7 (§ [18.2-61](#) et seq.) of Chapter 4 against a person under 18 years of age may be had in the county or city in which such crime is alleged to have occurred or, when the county or city where the offense is alleged to have occurred cannot be determined, then in the county or city where the person under 18 years of age resided at the time of the offense.

D. Venue for the trial of any person charged with committing or attempting to commit (i) any crime specified in § [18.2-361](#)~~–0F~~, [18.2-370](#), or [18.2-370.1](#), or criminal sexual assault under Article 7 (§ [18.2-61](#) et seq.) of Chapter 4 and (ii) any violent felony as defined in § [17.1-805](#) or any act of violence as defined in § [19.2-297.1](#) arising out of the same incident, occurrence, or transaction may be had in the county or city in which any such crime is alleged to have occurred or, with the concurrence of the attorney for the Commonwealth in the county or city in which the crime is alleged to have occurred, in any county or city through which the victim was transported by the defendant in the commission of such offense.

**Venue in criminal cases.** Provides that if it cannot readily be determined where a crime was committed in the Commonwealth, venue for the prosecution of the crime may be had in any county or city (i) in which the defendant resides or (ii) in which the defendant is apprehended if he is a nonresident. The bill also provides that venue for offenses related to a homicide offense may be had in the same county or city as venue for the homicide offense. The bill further provides that venue for homicide offenses may be had in any county or city where any part of the victim's body is found.

#### CHAPTER 632

An Act to amend and reenact §§ [19.2-244](#) and [19.2-247](#) of the Code of Virginia, relating to venue in criminal cases.

[H 1927]

Approved March 26, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ [19.2-244](#) and [19.2-247](#) of the Code of Virginia are amended and reenacted as follows:

§ [19.2-244](#). Venue in general.

A. Except as otherwise provided by law, the prosecution of a criminal case shall be had in the county or city in which the offense was committed. Except as to motions for a change of venue, all other questions of venue must be raised before verdict in cases tried by a jury and before the finding of guilty in cases tried by the court without a jury.

B. *If an offense has been committed within the Commonwealth and it cannot readily be determined within which county or city the offense was committed, venue for the prosecution of the offense may be had in the county or city (i) in which the defendant resides or (ii) if the defendant is not a resident of the Commonwealth, in which the defendant is apprehended.*

§ [19.2-247](#). Venue in certain homicide cases.

Where evidence exists that a homicide has been committed either within or without ~~this~~ the Commonwealth, under circumstances ~~which~~ that make it unknown where such crime was committed, the ~~offense~~ *homicide and any related offenses* shall be amenable to prosecution in the courts of the county or city where the body *or any part thereof* of the victim may be found or, if the victim was removed from the Commonwealth for medical treatment prior to death and died outside the Commonwealth, in the courts of the county or city from which the victim was removed for medical treatment prior to death, as if the offense has been committed in such county or city. In a prosecution for capital murder pursuant to subdivision 8 of § [18.2-31](#), the offense may be prosecuted in any jurisdiction in the Commonwealth in which any one of the killings may be prosecuted.

**Real-time location data; search warrant.** Provides that a search warrant for real-time location data shall be issued if the judge or magistrate issuing the warrant is satisfied that probable cause has been established that the real-time location data sought is relevant to a crime that is being committed or has been committed or that an arrest warrant exists for the person whose real-time location data is sought.

#### CHAPTER 634

*An Act to amend and reenact § 19.2-70.3 of the Code of Virginia, relating to obtaining records concerning electronic communication service or remote computing service; real-time location data.*

[H 2355]

Approved March 26, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [19.2-70.3](#) of the Code of Virginia is amended and reenacted as follows:

§ [19.2-70.3](#). Obtaining records concerning electronic communication service or remote computing service.

A. A provider of electronic communication service or remote computing service, which, for purposes of subdivisions 2 through 4, includes a foreign corporation that provides such services, shall disclose a record or other information pertaining to a subscriber to or customer of such service, excluding the contents of electronic communications and real-time location data, to an investigative or law-enforcement officer only pursuant to:

1. A subpoena issued by a grand jury of a court of the Commonwealth;
2. A search warrant issued by a magistrate, general district court, or circuit court;
3. A court order for such disclosure issued as provided in subsection B; or
4. The consent of the subscriber or customer to such disclosure.

B. A court shall issue an order for disclosure under this section only if the investigative or law-enforcement officer shows that there is reason to believe the records or other information sought are relevant and material to an ongoing criminal investigation, or the investigation of any missing child as defined in § [52-32](#), missing senior adult as defined in § [52-34.4](#), or an incapacitated person as defined in § [64.2-2000](#) who meets the definition of a missing senior adult except for the age requirement. Upon issuance of an order for disclosure under this section, the order and any written application or statement of facts may be sealed by the court for 90 days for good cause shown upon application of the attorney for the Commonwealth in an ex parte proceeding. The order and any written application or statement of facts may be sealed for additional 90-day periods for good cause shown upon subsequent application of the attorney for the Commonwealth in an ex parte proceeding. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify the order, if the information or records requested are unusually voluminous in nature or compliance with such order would otherwise cause an undue burden on such provider.

C. Except as provided in subsection D, a provider of electronic communication service or remote computing service, including a foreign corporation that provides such services, shall disclose the contents of electronic communications or real-time location data to an investigative or law-enforcement officer only pursuant to a search warrant issued by a magistrate, a juvenile and domestic relations district court, a general district court, or a circuit court, based upon complaint on oath supported by an affidavit as required in § [19.2-54](#), or judicial officer or court of any of the several states of the United States or its territories, or the District of Columbia when the warrant issued by such officer or such court complies with the provisions of subsection G. In the case of a search warrant directed to a foreign corporation, the affidavit shall state that the complainant believes that the records requested are actually or constructively possessed by a foreign corporation that provides electronic communication service or remote computing service within the Commonwealth of Virginia. If satisfied that probable cause has been established for such belief and as required by Chapter 5 (§ [19.2-52](#) et seq.), the magistrate, the juvenile and domestic relations

district court, the general district court, or the circuit court shall issue a warrant identifying those records to be searched for and commanding the person seeking such warrant to properly serve the warrant upon the foreign corporation. *A search warrant for real-time location data shall be issued if the magistrate, the juvenile and domestic relations district court, the general district court, or the circuit court is satisfied that probable cause has been established that the real-time location data sought is relevant to a crime that is being committed or has been committed or that an arrest warrant exists for the person whose real-time location data is sought.*

D. A provider of electronic communication service or remote computing service, including a foreign corporation that provides such services, shall disclose a record or other information pertaining to a subscriber to or customer of such service, including real-time location data but excluding the contents of electronic communications, to an investigative or law-enforcement officer pursuant to an administrative subpoena issued pursuant to § [19.2-10.2](#) concerning a violation of § [18.2-374.1](#) or [18.2-374.1:1](#), former § [18.2-374.1:2](#), or § [18.2-374.3](#) when the information sought is relevant and material to an ongoing criminal investigation.

E. When disclosure of real-time location data is not prohibited by federal law, an investigative or law-enforcement officer may obtain real-time location data without a warrant in the following circumstances:

1. To respond to the user's call for emergency services;
2. With the informed, affirmative consent of the owner or user of the electronic device concerned if (i) the device is in his possession; (ii) the owner or user knows or believes that the device is in the possession of an employee or agent of the owner or user with the owner's or user's consent; or (iii) the owner or user knows or believes that the device has been taken by a third party without the consent of the owner or user;
3. With the informed, affirmative consent of the legal guardian or next of kin of the owner or user, if reasonably available, if the owner or user is reasonably believed to be deceased, is reported missing, or is unable to be contacted; or
4. If the investigative or law-enforcement officer reasonably believes that an emergency involving the immediate danger to a person requires the disclosure, without delay, of real-time location data concerning a specific person and that a warrant cannot be obtained in time to prevent the identified danger, and the possessor of the real-time location data believes, in good faith, that an emergency involving danger to a person requires disclosure without delay.

No later than three business days after seeking disclosure of real-time location data pursuant to this subsection, the investigative or law-enforcement officer seeking the information shall file with the appropriate court a written statement setting forth the facts giving rise to the emergency and the facts as to why the person whose real-time location data was sought is believed to be important in addressing the emergency.

F. In order to comply with the requirements of § [19.2-54](#), any search of the records of a foreign corporation shall be deemed to have been made in the same place wherein the search warrant was issued.

G. A Virginia corporation or other entity that provides electronic communication services or remote computing services to the general public, when properly served with a search warrant and affidavit in support of the warrant, issued by a judicial officer or court of any of the several states of the United States or its territories, or the District of Columbia with jurisdiction over the matter, to produce a record or other information pertaining to a subscriber to or customer of such service, including real-time location data, or the contents of electronic communications, or both, shall produce the record or other information, including real-time location data, or the contents of electronic communications as if that warrant had been issued by a Virginia court. The provisions of this subsection shall only apply to a record or other information, including real-time location data, or contents of electronic communications relating to the commission of a criminal offense that is substantially similar to (i) a violent felony as defined in § [17.1-805](#), (ii) an act of violence as defined in § [19.2-297.1](#), (iii) any offense for which registration is required pursuant to § [9.1-902](#), (iv) computer fraud pursuant to § [18.2-152.3](#), or (v) identity theft pursuant to § [18.2-186.3](#). The search warrant shall be enforced and executed in the Commonwealth as if it were a search warrant described in subsection C.

H. The provider of electronic communication service or remote computing service may verify the authenticity of the written reports or records that it discloses pursuant to this section, excluding the contents of electronic communications, by providing an affidavit from the custodian of those written reports or records or from a person to whom said custodian reports certifying that they are true and complete and that they are prepared in the regular course of business. When so authenticated, the written reports and records are admissible in evidence as a business records exception to the hearsay rule.

I. No cause of action shall lie in any court against a provider of a wire or electronic communication service or remote computing service or such provider's officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, administrative subpoena, or subpoena under this section or the provisions of subsection E.

J. A search warrant or administrative subpoena for the disclosure of real-time location data pursuant to this section shall require the provider to provide ongoing disclosure of such data for a reasonable period of time, not to exceed 30 days. A court may, for good cause shown, grant one or more extensions, not to exceed 30 days each.

K. For the purposes of this section:

"Electronic device" means a device that enables access to, or use of, an electronic communication service, remote computing service, or location information service, including a global positioning service or other mapping, locational, or directional information service.

"Foreign corporation" means any corporation or other entity, whose primary place of business is located outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of service agreement with a resident of the Commonwealth to be performed in whole or in part by either party in the Commonwealth, or a corporation that has been issued a certificate of authority pursuant to § [13.1-759](#) to transact business in the Commonwealth. The making of the contract or terms of service agreement or the issuance of a certificate of authority shall be considered to be the agreement of the foreign corporation or entity that a search warrant or subpoena, which has been properly served on it, has the same legal force and effect as if served personally within the Commonwealth.

"Properly served" means delivery of a search warrant or subpoena by hand, by United States mail, by commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its general manager in the Commonwealth, to any natural person designated by it as agent for the service of process, or if such corporation has designated a corporate agent, to any person named in the latest annual report filed pursuant to § [13.1-775](#).

"Real-time location data" means any data or information concerning the current location of an electronic device that, in whole or in part, is generated, derived from, or obtained by the operation of the device.

**Sex offenses prohibiting entry onto school or other property; hearing.** Provides that a sex offender who is prohibited from entering upon school or child day center property who petitions the circuit court for permission to enter such property must cause notice of the time and place of the hearing on his petition to be published once a week for two successive weeks in a newspaper of general circulation. The newspaper notice must contain a provision stating that written comments regarding the petition may be submitted to the clerk of court at least five days prior to the hearing. The bill also requires that for a public school the petitioner must provide notice of his petition to the chairman of the school board in addition to the Superintendent of Public Instruction.

#### CHAPTER 688

An Act to amend and reenact § [18.2-370.5](#) of the Code of Virginia, relating to sex offenses prohibiting entry onto school or other property; hearing.

[H 1366]

Approved March 27, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [18.2-370.5](#) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-370.5](#). Sex offenses prohibiting entry onto school or other property; penalty.

A. Every adult who is convicted of a sexually violent offense, as defined in § [9.1-902](#), shall be prohibited from entering or being present (i) during school hours, and during school-related or school-sponsored activities upon any property he knows or has reason to know is a public or private elementary or secondary school or child day center property; (ii) on any school bus as defined in § [46.2-100](#); or (iii) upon any property, public or private, during hours when such property is solely being used by a public or private elementary or secondary school for a school-related or school-sponsored activity.

B. The provisions of clauses (i) and (iii) of subsection A shall not apply to such adult if (i) he is a lawfully registered and qualified voter, and is coming upon such property solely for purposes of casting his vote; (ii) he is a student enrolled at the school; or (iii) he has obtained a court order pursuant to subsection C allowing him to enter and be present upon such property, has obtained the permission of the school board or of the owner of the private school or child day center or their designee for entry within all or part of the scope of the lifted ban, and is in compliance with such school board's, school's or center's terms and conditions and those of the court order.

C. Every adult who is prohibited from entering upon school or child day center property pursuant to subsection A may after notice to the attorney for the Commonwealth and either (i) the proprietor of the child day center, (ii) the Superintendent of Public Instruction *and the chairman of the school board* of the school division in which the school is located, or (iii) the chief administrator of the school if such school is not a public school, petition the circuit court in the county or city where the school or child day center is located for permission to enter such property. *The court shall direct that the petitioner shall cause notice of the time and place of the hearing on his petition to be published once a week for two successive weeks in a newspaper meeting the requirements of § [8.01-324](#). The newspaper notice shall contain a provision stating that written comments regarding the petition may be submitted to the clerk of court at least five days prior to the hearing.* For good cause shown, the court may issue an order permitting the petitioner to enter and be present on such property, subject to whatever restrictions of area, reasons for being present, or time limits the court deems appropriate.

D. A violation of this section is punishable as a Class 6 felony.

**Commercial sex trafficking; penalties.** Creates new felonies for trafficking of persons for commercial sexual activity. The bill provides that any person who solicits, invites, recruits, encourages, or otherwise causes or attempts to cause a person to engage in prostitution with the intent to receive money or other valuable thing or to assist another in receiving money or other valuable thing from the earnings of the solicited person from an act of prostitution is guilty of a Class 5 felony. Felonies are increased if such behavior is done by an adult and the person solicited is a minor (Class 3 felony) and if force, intimidation, or deception is used against the person solicited (Class 4 felony). The new crime was added to the definition of violent felony for the purposes of the sentencing guidelines, predicate criminal acts for street gangs, the Virginia Racketeer Influence and Corrupt Organization Act, multijurisdiction grand jury, and asset forfeiture and, if a minor is solicited, the Sex Offender Registry. The bill also amends two existing Code sections on receiving money for procuring a person for prostitution and receiving money from the earnings of a person engaged in prostitution to increase penalties if the crime involves a minor. This bill is identical to [SB 1188](#).

#### CHAPTER 690

*An Act to amend and reenact §§ [9.1-902](#), [17.1-805](#), [18.2-46.1](#), [18.2-356](#), [18.2-357](#), [18.2-513](#), [19.2-215.1](#), and [19.2-386.35](#) of the Code of Virginia and to amend the Code of Virginia by adding a section numbered [18.2-357.1](#), relating to commercial sex trafficking; penalties.*

[H 1964]

Approved March 27, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ [9.1-902](#), [17.1-805](#), [18.2-46.1](#), [18.2-356](#), [18.2-357](#), [18.2-513](#), [19.2-215.1](#), and [19.2-386.35](#) of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered [18.2-357.1](#) as follows:

§ [9.1-902](#). Offenses requiring registration.

A. For purposes of this chapter:

"Offense for which registration is required" includes:

1. Any offense listed in subsection B;
2. Criminal homicide;
3. Murder;
4. A sexually violent offense;
5. Any offense similar to those listed in subdivisions 1 through 4 under the laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof; and
6. Any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

B. The offenses included under this subsection include any violation of, attempted violation of, or conspiracy to violate:

1. § [18.2-63](#); unless registration is required pursuant to subdivision E 1; § [18.2-64.1](#); former § [18.2-67.2:1](#); § [18.2-90](#) with the intent to commit rape; former § [18.1-88](#) with the intent to commit rape; any felony violation of § [18.2-346](#); any violation of subdivision (4) of § [18.2-355](#); any violation of subsection C of § [18.2-357.1](#); subsection B or C of §

[18.2-374.1:1](#); former subsection D of § [18.2-374.1:1](#) as it was in effect from July 1, 1994, through June 30, 2007; former clause (iv) of subsection B of § [18.2-374.3](#) as it was in effect on June 30, 2007; ~~or~~ subsection B, C, or D of § [18.2-374.3](#); or a third or subsequent conviction of (i) § [18.2-67.4](#), (ii) § [18.2-67.4:2](#), (iii) subsection C of § [18.2-67.5](#), or (iv) § [18.2-386.1](#).

If the offense was committed on or after July 1, 2006, § [18.2-91](#) with the intent to commit any felony offense listed in this section; subsection A of § [18.2-374.1:1](#); or a felony under § [18.2-67.5:1](#).

2. Where the victim is a minor or is physically helpless or mentally incapacitated as defined in § [18.2-67.10](#), subsection A of § [18.2-47](#), clause (i) of § [18.2-48](#), § [18.2-67.4](#), subsection C of § [18.2-67.5](#), § [18.2-361](#), § [18.2-366](#), or a felony violation of former § [18.1-191](#).

3. § [18.2-370.6](#).

C. "Criminal homicide" means a homicide in conjunction with a violation of, attempted violation of, or conspiracy to violate clause (i) of § [18.2-371](#) or § [18.2-371.1](#), when the offenses arise out of the same incident.

D. "Murder" means a violation of, attempted violation of, or conspiracy to violate § [18.2-31](#) or § [18.2-32](#) where the victim is (i) under 15 years of age or (ii) where the victim is at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section or a violation of former § [18.1-21](#) where the victim is (a) under 15 years of age or (b) at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section.

E. "Sexually violent offense" means a violation of, attempted violation of, or conspiracy to violate:

1. Clause (ii) and (iii) of § [18.2-48](#), former § [18.1-38](#) with the intent to defile or, for the purpose of concubinage or prostitution, a felony violation of subdivision (2) or (3) of former § [18.1-39](#) that involves assisting or aiding in such an abduction, § [18.2-61](#), former § [18.1-44](#) when such act is accomplished against the complaining witness's will, by force, or through the use of the complaining witness's mental incapacity or physical helplessness, or if the victim is under 13 years of age, subsection A of § [18.2-63](#) where the perpetrator is more than five years older than the victim, § [18.2-67.1](#), § [18.2-67.2](#), § [18.2-67.3](#), former § [18.1-215](#) when the complaining witness is under 13 years of age, § [18.2-67.4](#) where the perpetrator is 18 years of age or older and the victim is under the age of six, subsections A and B of § [18.2-67.5](#), § [18.2-370](#), subdivision (1), (2), or (4) of former § [18.1-213](#), former § [18.1-214](#), ~~or~~ § [18.2-370.1](#), or § [18.2-374.1](#); or

2. § [18.2-63](#), § [18.2-64.1](#), former § [18.2-67.2:1](#), § [18.2-90](#) with the intent to commit rape or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § [18.2-67.10](#), subsection A of § [18.2-47](#), § [18.2-67.4](#), subsection C of § [18.2-67.5](#), clause (i) of § [18.2-48](#), § [18.2-361](#), § [18.2-366](#), or subsection C of § [18.2-374.1:1](#). An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that person had been at liberty between such convictions or adjudications;

3. If the offense was committed on or after July 1, 2006, § [18.2-91](#) with the intent to commit any felony offense listed in this section. An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that the person had been at liberty between such convictions or adjudications; or

4. Chapter 117 (18 U.S.C. § 2421 et seq.) of Title 18 of the United States Code or sex trafficking (as described in § 1591 of Title 18, U.S.C.).

F. "Any offense listed in subsection B," "criminal homicide" as defined in this section, "murder" as defined in this section, and "sexually violent offense" as defined in this section includes (i) any similar offense under the laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof or (ii)

any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

G. Juveniles adjudicated delinquent shall not be required to register; however, where the offender is a juvenile over the age of 13 at the time of the offense who is tried as a juvenile and is adjudicated delinquent on or after July 1, 2005, of any offense for which registration is required, the court may, in its discretion and upon motion of the attorney for the Commonwealth, find that the circumstances of the offense require offender registration. In making its determination, the court shall consider all of the following factors that are relevant to the case: (i) the degree to which the delinquent act was committed with the use of force, threat or intimidation, (ii) the age and maturity of the complaining witness, (iii) the age and maturity of the offender, (iv) the difference in the ages of the complaining witness and the offender, (v) the nature of the relationship between the complaining witness and the offender, (vi) the offender's prior criminal history, and (vii) any other aggravating or mitigating factors relevant to the case. The attorney for the Commonwealth may file such a motion at any time during which the offender is within the jurisdiction of the court for the offense that is the basis for such motion. Prior to any hearing on such motion, the court shall appoint a qualified and competent attorney-at-law to represent the offender unless an attorney has been retained and appears on behalf of the offender or counsel has already been appointed.

H. Prior to entering judgment of conviction of an offense for which registration is required if the victim of the offense was a minor, physically helpless, or mentally incapacitated, when the indictment, warrant, or information does not allege that the victim of the offense was a minor, physically helpless, or mentally incapacitated, the court shall determine by a preponderance of the evidence whether the victim of the offense was a minor, physically helpless, or mentally incapacitated, as defined in § [18.2-67.10](#), and shall also determine the age of the victim at the time of the offense if it determines the victim to be a minor. When such a determination is required, the court shall advise the defendant of its determination and of the defendant's right to make a motion to withdraw a plea of guilty or nolo contendere pursuant to § [19.2-296](#). If the court grants the defendant's motion to withdraw his plea of guilty or of nolo contendere, his case shall be heard by another judge, unless the parties agree otherwise. Failure to make such determination or so advise the defendant does not otherwise invalidate the underlying conviction.

§ [17.1-805](#). Adoption of initial discretionary sentencing guideline midpoints.

A. The Commission shall adopt an initial set of discretionary felony sentencing guidelines which shall become effective on January 1, 1995. The initial recommended sentencing range for each felony offense shall be determined first, by computing the actual time-served distribution for similarly situated offenders, in terms of their conviction offense and prior criminal history, released from incarceration during the base period of calendar years 1988 through 1992, increased by 13.4 percent, and second, by eliminating from this range the upper and lower quartiles. The midpoint of each initial recommended sentencing range shall be the median time served for the middle two quartiles and subject to the following additional enhancements:

1. The midpoint of the initial recommended sentencing range for first degree murder, second degree murder, rape in violation of § [18.2-61](#), forcible sodomy, object sexual penetration, and aggravated sexual battery, shall be further increased by (i) 125 percent in cases in which the defendant has no previous conviction of a violent felony offense; (ii) 300 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years; or (iii) 500 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of 40 years or more, except that the recommended sentence for a defendant convicted of first degree murder who has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of 40 years or more shall be imprisonment for life;

2. The midpoint of the initial recommended sentencing range for voluntary manslaughter, robbery, aggravated malicious wounding, malicious wounding, and any burglary of a dwelling house or statutory burglary of a dwelling house or any burglary committed while armed with a deadly weapon or any statutory burglary committed while armed with a deadly weapon shall be further increased by (i) 100 percent in cases in which the defendant has no previous conviction of a violent felony offense, (ii) 300 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of less than 40 years, or (iii)

500 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of 40 years or more;

3. The midpoint of the initial recommended sentencing range for manufacturing, selling, giving or distributing, or possessing with the intent to manufacture, sell, give or distribute a Schedule I or II controlled substance shall be increased by (i) 200 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years or (ii) 400 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of 40 years or more; and

4. The midpoint of the initial recommended sentencing range for felony offenses not specified in subdivision 1, 2, or 3 shall be increased by 100 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years, and by 300 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of 40 years or more.

B. For purposes of this chapter, previous convictions shall include prior adult convictions and juvenile convictions and adjudications of delinquency based on an offense which would have been at the time of conviction a felony if committed by an adult under the laws of any state, the District of Columbia, the United States or its territories.

C. For purposes of this chapter, violent felony offenses shall include any felony violation of § [16.1-253.2](#); solicitation to commit murder under § [18.2-29](#); any violation of § [18.2-31](#), [18.2-32](#), [18.2-32.1](#), [18.2-32.2](#), [18.2-33](#), or [18.2-35](#); any violation of subsection B of § [18.2-36.1](#); any violation of § [18.2-40](#) or [18.2-41](#); any violation of clause (c)(i) or (ii) of subsection B of § [18.2-46.3](#); any violation of § [18.2-46.5](#), [18.2-46.6](#), or [18.2-46.7](#); any Class 5 felony violation of § [18.2-47](#); any felony violation of § [18.2-48](#), [18.2-48.1](#), or [18.2-49](#); any violation of § [18.2-51](#), [18.2-51.1](#), [18.2-51.2](#), [18.2-51.3](#), [18.2-51.4](#), [18.2-51.6](#), [18.2-52](#), [18.2-52.1](#), [18.2-53](#), [18.2-53.1](#), [18.2-54.1](#), [18.2-54.2](#), or [18.2-55](#); any violation of subsection B of § [18.2-57](#); any felony violation of § [18.2-57.2](#); any violation of § [18.2-58](#) or [18.2-58.1](#); any felony violation of § [18.2-60.1](#), [18.2-60.3](#), or [18.2-60.4](#); any violation of § [18.2-61](#), [18.2-64.1](#), [18.2-67.1](#), [18.2-67.2](#), former § [18.2-67.2:1](#), [18.2-67.3](#), [18.2-67.5](#), or [18.2-67.5:1](#) involving a third conviction of either sexual battery in violation of § [18.2-67.4](#) or attempted sexual battery in violation of subsection C of § [18.2-67.5](#); any Class 4 felony violation of § [18.2-63](#); any violation of subsection A of § [18.2-67.4:1](#); any violation of subsection A of § [18.2-77](#); any Class 3 felony violation of § [18.2-79](#); any Class 3 felony violation of § [18.2-80](#); any violation of § [18.2-85](#), [18.2-89](#), [18.2-90](#), [18.2-91](#), [18.2-92](#), or [18.2-93](#); any felony violation of § [18.2-152.7](#); any Class 4 felony violation of § [18.2-153](#); any Class 4 felony violation of § [18.2-154](#); any Class 4 felony violation of § [18.2-155](#); any felony violation of § [18.2-162](#); any violation of § [18.2-279](#) involving an occupied dwelling; any felony violation of subsection A or B of § [18.2-280](#); any violation of § [18.2-281](#); any felony violation of subsection A of § [18.2-282](#); any felony violation of § [18.2-282.1](#); any violation of § [18.2-286.1](#), [18.2-287.2](#), [18.2-289](#), or [18.2-290](#); any violation of subsection A of § [18.2-300](#); any felony violation of subsection C of § [18.2-308.1](#) or [18.2-308.2](#); any violation of § [18.2-308.2:1](#) or subsection M or N of § [18.2-308.2:2](#); any violation of § [18.2-308.3](#) or [18.2-312](#); any violation of subdivision (2) or (3) of § [18.2-355](#); any violation of § [18.2-357.1](#); any violation of former § [18.2-358](#); any violation of subsection B of § [18.2-361](#); any violation of subsection B of § [18.2-366](#); any violation of § [18.2-368](#), [18.2-370](#), or [18.2-370.1](#); any violation of subsection A of § [18.2-371.1](#); any felony violation of § [18.2-369](#) resulting in serious bodily injury or disease; any violation of § [18.2-374.1](#); any felony violation of § [18.2-374.1:1](#); any violation of § [18.2-374.3](#) or [18.2-374.4](#); any second or subsequent offense under §§ [18.2-379](#) and [18.2-381](#); any felony violation of § [18.2-405](#) or [18.2-406](#); any violation of § [18.2-408](#), [18.2-413](#), [18.2-414](#), [18.2-423](#), [18.2-423.01](#), [18.2-423.1](#), [18.2-423.2](#), or [18.2-433.2](#); any felony violation of § [18.2-460](#), [18.2-474.1](#), or [18.2-477.1](#); any violation of § [18.2-477](#), [18.2-478](#), [18.2-480](#), [18.2-481](#), or [18.2-485](#); any violation of § [37.2-917](#); any violation of § [52-48](#); any violation of § [53.1-203](#); or any conspiracy or attempt to commit any offense specified in this subsection, and any substantially similar offense under the laws of any state, the District of Columbia, the United States or its territories.

§ [18.2-46.1](#). Definitions.

As used in this article unless the context requires otherwise or it is otherwise provided:

"Act of violence" means those felony offenses described in subsection A of § [19.2-297.1](#).

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § [18.2-31](#), [18.2-42](#), [18.2-46.3](#), [18.2-51](#), [18.2-51.1](#), [18.2-51.2](#), [18.2-51.3](#), [18.2-51.6](#), [18.2-52](#), [18.2-52.1](#), [18.2-53](#), [18.2-53.1](#), [18.2-55](#), [18.2-56.1](#), [18.2-57](#), [18.2-57.2](#), [18.2-59](#), [18.2-83](#), [18.2-89](#), [18.2-90](#), [18.2-95](#), [18.2-108.1](#), [18.2-121](#), [18.2-127](#), [18.2-128](#), [18.2-137](#), [18.2-138](#), [18.2-146](#), [18.2-147](#), [18.2-248.01](#), [18.2-248.03](#), [18.2-255](#), [18.2-255.2](#), [18.2-279](#), [18.2-282.1](#), [18.2-286.1](#), [18.2-287.4](#), [18.2-289](#), [18.2-300](#), [18.2-308.1](#), [18.2-308.2](#), [18.2-308.2:01](#), [18.2-308.4](#), [18.2-355](#), [18.2-356](#), ~~or~~ [18.2-357](#), or [18.2-357.1](#); (iii) a felony violation of § [18.2-60.3](#); (iv) a felony violation of § [18.2-248](#) or of [18.2-248.1](#) or a conspiracy to commit a felony violation of § [18.2-248](#) or [18.2-248.1](#); (v) any violation of a local ordinance adopted pursuant to § [15.2-1812.2](#); or (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

Article 3.

~~Sexual Offenses, Commercial Sex Trafficking, Prostitution, etc.~~

§ [18.2-356](#). Receiving money for procuring person; penalties.

Any person who receives any money or other valuable thing for or on account of (i) procuring for or placing in a house of prostitution or elsewhere any person for the purpose of causing such person to engage in unlawful sexual intercourse, anal intercourse, cunnilingus, fellatio, or anilingus or any act in violation of § [18.2-361](#) or (ii) causing any person to engage in forced labor or services, concubinage, prostitution, or the manufacture of any obscene material or child pornography is guilty of a Class 4 felony. *Any person who violates clause (i) or (ii) with a person under the age of 18 is guilty of a Class 3 felony.*

§ [18.2-357](#). Receiving money from earnings of male or female prostitute; penalties.

Any person who shall knowingly receive any money or other valuable thing from the earnings of any male or female engaged in prostitution, except for a consideration deemed good and valuable in law, shall be guilty of pandering, punishable as a Class 4 felony. *Any person who violates this section by receiving money or other valuable thing from a person under the age of 18 is guilty of a Class 3 felony.*

§ [18.2-357.1](#). Commercial sex trafficking; penalties.

A. *Any person who, with the intent to receive money or other valuable thing or to assist another in receiving money or other valuable thing from the earnings of a person from prostitution or unlawful sexual intercourse in violation of subsection A of § [18.2-346](#), solicits, invites, recruits, encourages, or otherwise causes or attempts to cause a person to violate subsection A of § [18.2-346](#) is guilty of a Class 5 felony.*

B. *Any person who violates subsection A through the use of force, intimidation, or deception is guilty of a Class 4 felony.*

C. *Any adult who violates subsection A with a person under the age of 18 is guilty of a Class 3 felony.*

§ [18.2-513](#). Definitions.

As used in this chapter, the term:

"Criminal street gang" shall be as defined in § [18.2-46.1](#).

"Enterprise" includes any of the following: sole proprietorship, partnership, corporation, business trust, criminal street gang; or other group of three or more individuals associated for the purpose of criminal activity.

"Proceeds" shall be as defined in § [18.2-246.2](#).

"Racketeering activity" means to commit, attempt to commit, conspire to commit, or to solicit, coerce, or intimidate another person to commit two or more of the following offenses: Article 2.1 (§ [18.2-46.1](#) et seq.) of Chapter 4 of this title, § [18.2-460](#); a felony offense of §§ [3.2-4212](#), [3.2-4219](#), [10.1-1455](#), [18.2-31](#), [18.2-32](#), [18.2-32.1](#), [18.2-33](#), [18.2-35](#), Article 2.2 (§ [18.2-46.4](#) et seq.) of Chapter 4 of this title, §§ [18.2-47](#), [18.2-48](#), [18.2-48.1](#), [18.2-49](#), [18.2-51](#), [18.2-51.2](#), [18.2-52](#), [18.2-53](#), [18.2-55](#), [18.2-58](#), [18.2-59](#), [18.2-77](#), [18.2-79](#), [18.2-80](#), [18.2-89](#), [18.2-90](#), [18.2-91](#), [18.2-92](#), [18.2-93](#), [18.2-95](#), Article 4 (§ [18.2-111](#) et seq.) of Chapter 5 of this title, Article 1 (§ [18.2-168](#) et seq.) of Chapter 6 of this title, §§ [18.2-178](#), [18.2-186](#), Article 6 (§ [18.2-191](#) et seq.) of Chapter 6 of this title, Article 9 (§ [18.2-246.1](#) et seq.) of Chapter 6 of this title, § [18.2-246.13](#), Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 of this title, §§ [18.2-279](#), [18.2-286.1](#), [18.2-289](#), [18.2-300](#), [18.2-308.2](#), [18.2-308.2:1](#), [18.2-328](#), [18.2-348](#), [18.2-355](#), [18.2-356](#), [18.2-357](#), [18.2-357.1](#), [18.2-368](#), [18.2-369](#), [18.2-374.1](#), Article 8 (§ [18.2-433.1](#) et seq.) of Chapter 9 of this title, Article 1 (§ [18.2-434](#) et seq.) of Chapter 10 of this title, Article 2 (§ [18.2-438](#) et seq.) of Chapter 10 of this title, Article 3 (§ [18.2-446](#) et seq.) of Chapter 10 of this title, Article 1.1 (§ [18.2-498.1](#) et seq.) of Chapter 12 of this title, § [3.2-6571](#), [18.2-516](#), [32.1-314](#), [58.1-1008.2](#), [58.1-1017](#), or [58.1-1017.1](#); or any substantially similar offenses under the laws of any other state, the District of Columbia, the United States or its territories.

§ [19.2-215.1](#). Functions of a multijurisdiction grand jury.

The functions of a multijurisdiction grand jury are:

1. To investigate any condition that involves or tends to promote criminal violations of:
  - a. Title 10.1 for which punishment as a felony is authorized;
  - b. § [13.1-520](#);
  - c. §§ [18.2-47](#) and [18.2-48](#);
  - d. §§ [18.2-111](#) and [18.2-112](#);
  - e. Article 6 (§ [18.2-59](#) et seq.) of Chapter 4 of Title 18.2;
  - f. Article 7.1 (§ [18.2-152.1](#) et seq.) of Chapter 5 of Title 18.2;
  - g. Article 1 (§ [18.2-247](#) et seq.) and Article 1.1 (§ [18.2-265.1](#) et seq.) of Chapter 7 of Title 18.2;
  - h. Article 1 (§ [18.2-325](#) et seq.) and Article 1.1:1 (§ [18.2-340.15](#) et seq.) of Chapter 8 of Title 18.2, Chapter 29 (§ [59.1-364](#) et seq.) of Title 59.1 or any other provision prohibiting, limiting, regulating, or otherwise affecting gaming or gambling activity;
  - i. § [18.2-434](#), when violations occur before a multijurisdiction grand jury;
  - j. Article 2 (§ [18.2-438](#) et seq.) and Article 3 (§ [18.2-446](#) et seq.) of Chapter 10 of Title 18.2;
  - k. § [18.2-460](#) for which punishment as a felony is authorized;
  - l. Article 1.1 (§ [18.2-498.1](#) et seq.) of Chapter 12 of Title 18.2;

- m. Article 1 (§ [32.1-310](#) et seq.) of Chapter 9 of Title 32.1;
  - n. Chapter 4.2 (§ [59.1-68.6](#) et seq.) of Title 59.1;
  - o. Article 9 (§ [3.2-6570](#) et seq.) of Chapter 65 of Title 3.2;
  - p. Article 1 (§ [18.2-30](#) et seq.) of Chapter 4 of Title 18.2;
  - q. Article 2.1 (§ [18.2-46.1](#) et seq.) and Article 2.2 (§ [18.2-46.4](#) et seq.) of Chapter 4 of Title 18.2;
  - r. Article 5 (§ [18.2-186](#) et seq.) and Article 6 (§ [18.2-191](#) et seq.) of Chapter 6 of Title 18.2;
  - s. Chapter 6.1 (§ [59.1-92.1](#) et seq.) of Title 59.1;
  - t. § [18.2-178](#) where the violation involves insurance fraud;
  - u. § [18.2-346](#) for which punishment as a felony is authorized or § [18.2-355](#), [18.2-356](#), [18.2-357](#), or [18.2-357.1](#);
  - v. Article 9 (§ [18.2-246.1](#) et seq.) of Chapter 6 of Title 18.2;
  - w. Article 2 (§ [18.2-38](#) et seq.) of Chapter 4 of Title 18.2;
  - x. Malicious felonious assault and malicious bodily wounding under Article 4 (§ [18.2-51](#) et seq.) of Chapter 4 of Title 18.2;
  - y. Article 5 (§ [18.2-58](#) et seq.) of Chapter 4 of Title 18.2;
  - z. Felonious sexual assault under Article 7 (§ [18.2-61](#) et seq.) of Chapter 4 of Title 18.2;
  - aa. Arson in violation of § [18.2-77](#) when the structure burned was occupied or a Class 3 felony violation of § [18.2-79](#);
  - bb. Chapter 13 (§ [18.2-512](#) et seq.) of Title 18.2;
  - cc. § [18.2-246.14](#) and Chapter 10 (§ [58.1-1000](#) et seq.) of Title 58.1; and
  - dd. Any other provision of law when such condition is discovered in the course of an investigation that a multijurisdiction grand jury is otherwise authorized to undertake and to investigate any condition that involves or tends to promote any attempt, solicitation or conspiracy to violate the laws enumerated in this section.
2. To report evidence of any criminal offense enumerated in subdivision 1 and for which a court reporter has recorded all oral testimony as provided by § [19.2-215.9](#) to the attorney for the Commonwealth or United States attorney of any jurisdiction where such offense could be prosecuted or investigated, or to the chief law-enforcement officer of any jurisdiction where such offense could be prosecuted or investigated, or to a sworn investigator designated pursuant to § [19.2-215.6](#), or, when appropriate, to the Attorney General.
  3. To consider bills of indictment prepared by a special counsel to determine whether there is sufficient probable cause to return each such indictment as a "true bill." Only bills of indictment which allege an offense enumerated in subdivision 1 may be submitted to a multijurisdiction grand jury.
  4. The provisions of this section shall not abrogate the authority of an attorney for the Commonwealth in a particular jurisdiction to determine the course of a prosecution in that jurisdiction.

§ [19.2-386.35](#). Seizure of property used in connection with certain offenses.

All money, equipment, motor vehicles, and other personal and real property of any kind or character together with any interest or profits derived from the investment of such proceeds or other property that (i) was used in connection with the commission of, or in an attempt to commit, a violation of subsection B of § [18.2-47](#), § [18.2-48](#) or [18.2-59](#), subsection B of § [18.2-346](#), or § [18.2-347](#), [18.2-348](#), [18.2-349](#), [18.2-355](#), [18.2-356](#), [18.2-357](#), [18.2-357.1](#), [40.1-29](#), [40.1-100.2](#), or [40.1-103](#); (ii) is traceable to the proceeds of some form of activity that violates subsection B of § [18.2-47](#), § [18.2-48](#) or [18.2-59](#), subsection B of § [18.2-346](#), or § [18.2-347](#), [18.2-348](#), [18.2-349](#), [18.2-355](#), [18.2-356](#), [18.2-357](#), [40.1-29](#), [40.1-100.2](#), or [40.1-103](#); or (iii) was used to or intended to be used to promote some form of activity that violates subsection B of § [18.2-47](#), § [18.2-48](#) or [18.2-59](#), subsection B of § [18.2-346](#), or § [18.2-347](#), [18.2-348](#), [18.2-349](#), [18.2-355](#), [18.2-356](#), [18.2-357](#), [40.1-29](#), [40.1-100.2](#), or [40.1-103](#) is subject to lawful seizure by a law-enforcement officer and subject to forfeiture to the Commonwealth pursuant to Chapter 22.1 (§ [19.2-386.1](#) et seq.). Any forfeiture action under this section shall be stayed until conviction, and property eligible for forfeiture pursuant to this section shall be forfeited only upon the entry of a final judgment of conviction for an offense listed in this section; if no such judgment is entered, all property seized pursuant to this section shall be released from seizure.

Real property shall not be subject to seizure unless the minimum prescribed punishment for the violation is a term of imprisonment of not less than five years.

All seizures and forfeitures under this section shall be governed by Chapter 22.1 (§ [19.2-386.1](#) et seq.), and the procedures specified therein shall apply, mutatis mutandis, to all forfeitures under this section.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2014, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

**Campus police departments; sexual assault reporting.** Requires that mutual aid agreements between a campus police force and a law-enforcement agency contain provisions requiring either the campus police force or the agency with which it has established a mutual aid agreement to notify the local attorney for the Commonwealth within 48 hours of beginning any investigation involving felony criminal sexual assault occurring on campus property or other property related to the institution of higher education. The bill also requires institutions of higher education that have security departments instead of campus police forces to enter into a memorandum of understanding with a law-enforcement agency and such memorandum of understanding shall contain similar provisions requiring reports to the local attorney for the Commonwealth.

#### CHAPTER 707

*An Act to amend and reenact § 23-234 of the Code of Virginia, relating to campus police departments; memoranda of understanding; sexual assaults; reporting to local attorney for the Commonwealth.*

[H 1785]

Approved March 27, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [23-234](#) of the Code of Virginia is amended and reenacted as follows:

§ [23-234](#). Powers and duties; jurisdiction; mutual aid agreements; memoranda of understanding.

A. A campus police officer appointed as provided in § [23-233](#) or appointed and activated pursuant to § [23-233.1](#) may exercise the powers and duties conferred by law upon police officers of cities, towns, or counties, and shall be so deemed, including but not limited to the provisions of Chapters 5 (§ [19.2-52](#) et seq.), 7 (§ [19.2-71](#) et seq.), and 23 (§ [19.2-387](#) et seq.) of Title 19.2, (i) upon any property owned or controlled by the relevant public or private institution of higher education, or, upon request, any property owned or controlled by another public or private institution of higher education and upon the streets, sidewalks, and highways, immediately adjacent thereto, (ii) pursuant to a mutual aid agreement provided for in § [15.2-1727](#) between the governing board of a public or private institution and such other institution of higher education, public or private, in the Commonwealth or adjacent political subdivisions, (iii) in close pursuit of a person as provided in § [19.2-77](#), and (iv) upon approval by the appropriate circuit court of a petition by the local governing body for concurrent jurisdiction in designated areas with the police officers of the county, city, or town in which the institution, its satellite campuses, or other properties are located. The local governing body may petition the circuit court pursuant only to a request by the local law-enforcement agency for concurrent jurisdiction.

B. All public or private institutions of higher education that have campus police forces established in accordance with the provisions of this chapter shall enter ~~in~~ into and become a party to mutual aid agreements with one or more of the following: (i) an adjacent local law-enforcement agency or (ii) the Department of State Police, for the use of their joint forces, both regular and auxiliary, equipment, and materials when needed in the investigation of any felony criminal sexual assault or medically unattended death occurring on property owned or controlled by the institution of higher education or any death resulting from an incident occurring on such property. *Such mutual aid agreements shall include provisions requiring either the campus police force or the agency with which it has established a mutual aid agreement pursuant to this subsection, in the event that such police force or agency conducts an investigation that involves a felony criminal sexual assault as set forth in Article 7 (§ [18.2-61](#) et seq.) of Chapter 4 of Title 18.2 occurring on campus, in or on a noncampus building or property, or on public property, to notify the local attorney for the Commonwealth of such investigation within 48 hours of beginning such investigation. Such notification shall not require a campus police force or the agency with which it has established a mutual aid agreement to disclose identifying information about the victim.* The provisions of this section shall not prohibit a campus police force from requesting assistance from any appropriate law-enforcement agency of the Commonwealth, even though a mutual aid agreement has not been executed with that agency.

C. All public or private institutions of higher education that (i) do not have campus police forces established in accordance with the provisions of this chapter and (ii) have security departments, rely on municipal, county, or state police forces, or contract for security services from private parties pursuant to § [23-238](#) shall enter into and become

*a party to a memorandum of understanding with an adjacent local law-enforcement agency or the Department of State Police (the Department) to require either such local law-enforcement agency or the Department, in the event that such agency or the Department conducts an investigation that involves a felony criminal sexual assault as set forth in Article 7 (§ [18.2-61](#) et seq.) of Chapter 4 of Title 18.2 occurring on campus, in or on a noncampus building or property, or on public property, to notify the local attorney for the Commonwealth of such investigation within 48 hours of beginning such investigation. Such notification shall not require the law-enforcement agency or the Department to disclose identifying information about the victim.*

*D. For purposes of this section:*

*"Campus" means (i) any building or property owned or controlled by an institution of higher education located within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls, and (ii) any building or property that is within or reasonably contiguous to the area described in clause (i) that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes, such as a food or other retail vendor.*

*"Noncampus building or property" means (i) any building or property owned or controlled by a student organization that is officially recognized by an institution of higher education or (ii) any building or property owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.*

*"Public property" means all public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.*

**Naloxone; administration in cases of opiate overdose.** Provides that a pharmacist may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, that a person may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opiate overdose, and that firefighters and law-enforcement officers who have completed a training program may possess and administer naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. The bill also provides that a person who in good faith prescribes, dispenses, or administers naloxone or other opioid antagonist used for overdose reversal in an emergency to an individual who is believed to be experiencing or about to experience a life-threatening opioid overdose shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if acting in accordance with the provisions of § 54.1-3408 or in his role as a member of an emergency medical services agency. The bill contains an emergency clause. This bill is identical to [HB 1833](#) and [SB 1186](#).

#### CHAPTER 725

*An Act to amend and reenact §§ [8.01-225](#) and [54.1-3408](#) of the Code of Virginia, relating to prescription, distribution, and administration of naloxone or other opioid antagonist.*

[H 1458]

Approved April 15, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ [8.01-225](#) and [54.1-3408](#) of the Code of Virginia are amended and reenacted as follows:

§ [8.01-225](#). Persons rendering emergency care, obstetrical services exempt from liability.

A. Any person who:

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person (i) at the scene of an accident, fire, or any life-threatening emergency; (ii) at a location for screening or stabilization of an emergency medical condition arising from an accident, fire, or any life-threatening emergency; or (iii) en route to any hospital, medical clinic, or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance.

2. In the absence of gross negligence, renders emergency obstetrical care or assistance to a female in active labor who has not previously been cared for in connection with the pregnancy by such person or by another professionally associated with such person and whose medical records are not reasonably available to such person shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care or assistance. The immunity herein granted shall apply only to the emergency medical care provided.

3. In good faith and without compensation, including any emergency medical services technician certified by the Board of Health, administers epinephrine in an emergency to an individual shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if such person has reason to believe that the individual receiving the injection is suffering or is about to suffer a life-threatening anaphylactic reaction.

4. Provides assistance upon request of any police agency, fire department, rescue or emergency squad, or governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission, or storage of liquefied petroleum gas, liquefied natural gas, hazardous material, or hazardous waste as defined in § [10.1-1400](#) or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance, whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire, or any other place, or while transporting such injured or ill person to, from, or between any hospital, medical facility, medical clinic, doctor's office, or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident, or any other place, or while transporting such person to or from any hospital, clinic, doctor's office, or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the rendering of such emergency resuscitative treatments or procedures.

7. Operates an AED at the scene of an emergency, trains individuals to be operators of AEDs, or orders AEDs, shall be immune from civil liability for any personal injury that results from any act or omission in the use of an AED in an emergency where the person performing the defibrillation acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances, unless such personal injury results from gross negligence or willful or wanton misconduct of the person rendering such emergency care.

8. Maintains an AED located on real property owned or controlled by such person shall be immune from civil liability for any personal injury that results from any act or omission in the use in an emergency of an AED located on such property unless such personal injury results from gross negligence or willful or wanton misconduct of the person who maintains the AED or his agent or employee.

9. Is an employee of a school board or of a local health department approved by the local governing body to provide health services pursuant to § [22.1-274](#) who, while on school property or at a school-sponsored event, (i) renders emergency care or assistance to any sick or injured person; (ii) renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures that have been approved by the State Board of Health to any sick or injured person; (iii) operates an AED, trains individuals to be operators of AEDs, or orders AEDs; or (iv) maintains an AED, shall not be liable for civil damages for ordinary negligence in acts or omissions on the part of such employee while engaged in the acts described in this subdivision.

10. Is a volunteer in good standing and certified to render emergency care by the National Ski Patrol System, Inc., who, in good faith and without compensation, renders emergency care or assistance to any injured or ill person, whether at the scene of a ski resort rescue, outdoor emergency rescue, or any other place or while transporting such injured or ill person to a place accessible for transfer to any available emergency medical system unit, or any resort owner voluntarily providing a ski patroller employed by him to engage in rescue or recovery work at a resort not owned or operated by him, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but not limited to acts or omissions which involve violations of any state regulation or any standard of the National Ski Patrol System, Inc., in the rendering of such emergency care or assistance, unless such act or omission was the result of gross negligence or willful misconduct.

11. Is an employee of a school board, authorized by a prescriber and trained in the administration of insulin and glucagon, who, upon the written request of the parents as defined in § [22.1-1](#), assists with the administration of insulin or administers glucagon to a student diagnosed as having diabetes who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered according to the child's medication schedule or such employee has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia.

Whenever any employee of a school board is covered by the immunity granted herein, the school board employing him shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

12. Is a school nurse, an employee of a school board, an employee of a local governing body, or an employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine and who provides, administers, or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

13. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of insulin and glucagon and who administers or assists with the administration of insulin or administers glucagon to a person diagnosed as having diabetes who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia in accordance with § [54.1-3408](#) shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered in accordance with the prescriber's instructions or such person has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person who provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services is covered by the immunity granted herein, the provider shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

14. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a person believed in good faith to be having an anaphylactic reaction in accordance with the prescriber's instructions shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

15. In good faith ~~and without compensation~~, *prescribes, dispenses, or administers naloxone or other opioid antagonist used for overdose reversal* in an emergency to an individual who is *believed to be* experiencing or is about to experience a life-threatening opiate overdose shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if ~~such administering person is a participant in a pilot program conducted by the Department of Behavioral Health and Developmental Services on the administration of naloxone for the purpose of counteracting the effects of opiate overdose acting in accordance with the provisions of subsection X of § 54.1-3408 or in his role as a member of an emergency medical services agency.~~

B. Any licensed physician serving without compensation as the operational medical director for a licensed emergency medical services agency in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency medical services in good faith by the personnel of such licensed agency unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any person serving without compensation as a dispatcher for any licensed public or nonprofit emergency services agency in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency services in good faith by the personnel of such licensed agency unless such act or omission was the result of such dispatcher's gross negligence or willful misconduct.

Any individual, certified by the State Office of Emergency Medical Services as an emergency medical services instructor and pursuant to a written agreement with such office, who, in good faith and in the performance of his duties, provides instruction to persons for certification or recertification as a certified basic life support or advanced life support emergency medical services technician shall not be liable for any civil damages for acts or omissions on

his part directly relating to his activities on behalf of such office unless such act or omission was the result of such emergency medical services instructor's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a medical advisor to an E-911 system in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to establish protocols to be used by the personnel of the E-911 service, as defined in § [58.1-1730](#), when answering emergency calls unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician who directs the provision of emergency medical services, as authorized by the State Board of Health, through a communications device shall not be liable for any civil damages for any act or omission resulting from the rendering of such emergency medical services unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a supervisor of an AED in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to the owner of the AED relating to personnel training, local emergency medical services coordination, protocol approval, AED deployment strategies, and equipment maintenance plans and records unless such act or omission was the result of such physician's gross negligence or willful misconduct.

C. Any communications services provider, as defined in § [58.1-647](#), including mobile service, and any provider of Voice-over-Internet Protocol service, in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering such service with or without charge related to emergency calls unless such act or omission was the result of such service provider's gross negligence or willful misconduct.

Any volunteer engaging in rescue or recovery work at a mine, or any mine operator voluntarily providing personnel to engage in rescue or recovery work at a mine not owned or operated by such operator, shall not be liable for civil damages for acts or omissions resulting from the rendering of such rescue or recovery work in good faith unless such act or omission was the result of gross negligence or willful misconduct. For purposes of this subsection, the term "Voice-over-Internet Protocol service" or "VoIP service" means any Internet protocol-enabled services utilizing a broadband connection, actually originating or terminating in Internet Protocol from either or both ends of a channel of communication offering real time, multidirectional voice functionality, including, but not limited to, services similar to traditional telephone service.

D. Nothing contained in this section shall be construed to provide immunity from liability arising out of the operation of a motor vehicle.

E. ~~{Expired.}~~

~~F.~~ For the purposes of this section, the term "compensation" shall not be construed to include (i) the salaries of police, fire, or other public officials or personnel who render such emergency assistance, (ii) the salaries or wages of employees of a coal producer engaging in emergency medical technician service or first aid service pursuant to the provisions of § [45.1-161.38](#), [45.1-161.101](#), [45.1-161.199](#), or [45.1-161.263](#), (iii) complimentary lift tickets, food, lodging, or other gifts provided as a gratuity to volunteer members of the National Ski Patrol System, Inc., by any resort, group, or agency, (iv) the salary of any person who (a) owns an AED for the use at the scene of an emergency, (b) trains individuals, in courses approved by the Board of Health, to operate AEDs at the scene of emergencies, (c) orders AEDs for use at the scene of emergencies, or (d) operates an AED at the scene of an emergency, or (v) expenses reimbursed to any person providing care or assistance pursuant to this section.

For the purposes of this section, an emergency medical care attendant or technician shall be deemed to include a person licensed or certified as such or its equivalent by any other state when he is performing services which he is licensed or certified to perform by such other state in caring for a patient in transit in the Commonwealth, which care originated in such other state.

Further, the public shall be urged to receive training on how to use CPR and an AED in order to acquire the skills and confidence to respond to emergencies using both CPR and an AED.

§ [54.1-3408](#). Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or a licensed nurse practitioner pursuant to § [54.1-2957.01](#), a licensed physician assistant pursuant to § [54.1-2952.1](#), or a TPA-certified optometrist pursuant to Article 5 (§ [54.1-3222](#) et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;

2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;

3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or

4. A licensed respiratory care practitioner as defined in § [54.1-2954](#) who administers by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; and epinephrine for use in emergency cases of anaphylactic shock.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § [32.1-50.2](#), such prescriber may authorize registered nurses or licensed practical nurses under the immediate and direct supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § [22.1-1](#), an employee of a school board who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the immediate and direct supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, certified emergency medical technician-intermediate, or emergency medical technician-paramedic under the direction of an operational medical director when the prescriber is not physically present. Emergency medical services personnel shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in §

[54.1-2722](#), to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, as well as any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § [63.2-100](#) and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § [22.1-319](#) and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ [54.1-3041](#) et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § [63.2-100](#) and regulated by the State Board of Social Services or a local government pursuant to § [15.2-914](#), or (ii) a student at a private school that complies with the accreditation requirements set forth in § [22.1-19](#) and is accredited by the Virginia Council for Private Education, provided such person (a) has

satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § [32.1-42.1](#) when (i) the Governor has declared a disaster or a state of emergency or the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § [18.2-258.1](#). Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ [54.1-2729.1](#) et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ [54.1-2729.1](#) et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § [32.1-126.4](#).

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse or a dental hygienist may possess and administer topical fluoride varnish to the teeth of children aged six months to three years pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry that conforms to standards adopted by the Department of Health.

W. A prescriber, acting in accordance with guidelines developed pursuant to § [32.1-46.02](#), may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse

under the direction and immediate supervision of a registered nurse, certified emergency medical technician-intermediate, or emergency medical technician-paramedic when the prescriber is not physically present.

X. Notwithstanding the provisions of § [54.1-3303](#) and only for the purpose of participation in pilot programs conducted by the Department of Behavioral Health and Developmental Services, a person may obtain a prescription for a family member or a friend and may possess and administer naloxone for the purpose of counteracting the effects of opiate overdose, pursuant to an oral, written or standing order issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist may dispense naloxone or other opioid antagonist used for overdose reversal and a person may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opiate overdose. Law-enforcement officers as defined in § [9.1-101](#) and firefighters who have completed a training program may also possess and administer naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

2. That an emergency exists and this act is in force from its passage.

**Schedule I drugs.** Adds N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name: AB-CHMINACA), N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-AMB), and 3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA) to Schedule I of the Drug Control Act, in accordance with the action of the Board of Pharmacy adding these substances to Schedule I pursuant to § 54.1-3443. This bill is identical to [SB 1380](#).

**CHAPTER 726**

*An Act to amend and reenact § [54.1-3446](#) of the Code of Virginia, relating to Schedule I drugs.*

[H 1564]

Approved April 15, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [54.1-3446](#) of the Code of Virginia is amended and reenacted as follows:

§ [54.1-3446](#). Schedule I.

The controlled substances listed in this section are included in Schedule I:

1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

Acetylmethadol;

Allylprodine;

Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

Alphameprodine;

Alphamethadol;

Benzethidine;

Betacetylmethadol;

Betameprodine;

Betamethadol;

Betaprodine;

Clonitazene;

Dextromoramide;

Diampromide;

Diethylthiambutene;

Difenoxin;  
Dimenoxadol;  
Dimepheptanol;  
Dimethylthiambutene;  
Dioxaphetylbutyrate;  
Dipipanone;  
Ethylmethylthiambutene;  
Etonitazene;  
Etoxidine;  
Furethidine;  
Hydroxypethidine;  
Ketobemidone;  
Levomoramide;  
Levophenacymorphan;  
Morpheridine;  
Noracymethadol;  
Norlevorphanol;  
Normethadone;  
Norpipanone;  
Phenadoxone;  
Phenampromide;  
Phenomorphane;  
Phenoperidine;  
Piritramide;  
Proheptazine;  
Propiridine;

Propiram;

Racemoramide;

Tilidine;

Trimeperidine.

2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

Acetorphine;

Acetyldihydrocodeine;

Benzylmorphine;

Codeine methylbromide;

Codeine-N-Oxide;

Cyprenorphine;

Desomorphine;

Dihydromorphine;

Drotebanol;

Etorphine;

Heroin;

Hydromorphanol;

Methyldesorphine;

Methyldihydromorphine;

Morphine methylbromide;

Morphine methylsulfonate;

Morphine-N-Oxide;

Myorphine;

Nicocodeine;

Nicomorphine;

Normorphine;

Pholcodine;

Thebacon.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

Alpha-ethyltryptamine (some trade or other names: Monase;a-ethyl-1H-indole-3-ethanamine; 3-2-aminobutyl] indole; a-ET; AET);

4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names: 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane;alpha-desmethyl DOB; 2C-B; Nexus);

4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names: 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane;alpha-desmethyl DOB; 2C-B; Nexus);

3,4-methylenedioxy amphetamine;

5-methoxy-3,4-methylenedioxy amphetamine;

3,4,5-trimethoxy amphetamine;

Alpha-methyltryptamine (other name: AMT);

Bufotenine;

Diethyltryptamine;

Dimethyltryptamine;

4-methyl-2,5-dimethoxyamphetamine;

2,5-dimethoxy-4-ethylamphetamine (DOET);

2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

Ibogaine;

5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);

Lysergic acid diethylamide;

Mescaline;

Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo -b,d] pyran; Synhexyl);

Peyote;

N-ethyl-3-piperidyl benzilate;

N-methyl-3-piperidyl benzilate;

Psilocybin;

Psilocyn;

Salvinorin A;

Tetrahydrocannabinols, except as present in marijuana and dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration;

Hashish oil (some trade or other names: hash oil; liquid marijuana; liquid hashish);

2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA);

3,4-methylenedioxyamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;

3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);

N-hydroxy-3,4-methylenedioxyamphetamine (some other names: N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);

4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);

4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA);

Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl) -pyrrolidine, PCPy, PHP);

Thiophene analog of phencyclidine (some other names: [1-1](#)-(2-thienyl) -cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP);

[1-1](#)-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);

3,4-methylenedioxypropylvalerone (other name: MDPV);

4-methylmethcathinone (other names: mephedrone, 4-MMC);

3,4-methylenedioxypropylmethcathinone (other name: methylone);

Naphthylpropylvalerone (other name: naphyrone);

4-fluoromethcathinone (other name: flephedrone, 4-FMC);

4-methoxymethcathinone (other names: methedrone; bk-PMMA);

Ethcathinone (other name: N-ethylcathinone);

3,4-methylenedioxyethcathinone (other name: ethylone);

Beta-keto-N-methyl-3,4-benzodioxolybutanamine (other name: butylone);

N,N-dimethylcathinone (other name: metamfepramone);

Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);

4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);

3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);

Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);

6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);

3-fluoromethcathinone (other name: 3-FMC);

4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);

4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);

4-Methylethcathinone (other name: 4-MEC);

4-Ethylmethcathinone (other name: 4-EMC);

N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);

Beta-keto-methylbenzodioxolypentanamine (other name: Pentylone, bk-MBDP);

Alpha-methylamino-butyrophenone (other name: Buphedrone);

Alpha-methylamino-valerophenone (other name: Pentedrone);

3,4-Dimethylmethcathinone (other name: 3,4-DMMC);

4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);

4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I, 25I-NBOMe);

Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);

4-Fluoromethamphetamine (other name: 4-FMA);

4-Fluoroamphetamine (other name: 4-FA);

2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);

2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);

2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);

2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);

2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);

2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);

2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);

(2-aminopropyl)benzofuran (other name: APB);

(2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);

4-chloro-2,5-dimethoxy-N- [ 2-methoxyphenyl ] methyl ] -benzeneethanamine (other names: 2C-C-NBOMe, 25C-NBOMe);

4-bromo-2,5-dimethoxy-N- [ 2-methoxyphenyl ] methyl ] benzeneethanamine (other names: 2C-B-NBOMe, 25B-NBOMe);

Acetoxymethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);

Benocyclidine (other names: BCP, BTCP);

Alpha-pyrrolidinobutiophenone (other name: alpha-PBP);

*3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA).*

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);

Mecloqualone;

Methaqualone.

5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4, 5-dihydro-5-phenyl-2-oxazolamine);

N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);

Fenethylamine;

Ethylamphetamine;

Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;

Methcathinone (some other names: 2-(methylamino)-propiofenone; ~~alpha-(methylamino)-propiofenone~~ *alpha-(methylamino)-propiofenone*; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR 1432);

Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

N,N-dimethylamphetamine (other names: N,N-alpha-trimethyl-benzeneethanamine, N,N-alpha-trimethylphenethylamine).

6. Any material, compound, mixture or preparation containing any quantity of the following substances:

N-3-methyl-1-(2-phenethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl), its optical and geometric isomers, salts, and salts of isomers;

1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP), its optical isomers, salts and salts of isomers;

1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP), its optical isomers, salts and salts of isomers;

N-1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide (other names: 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine), alpha-methylfentanyl);

N-1-(1-methyl-2-phenethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl), its optical isomers, salts and salts of isomers;

N-1-(1-methyl-2-2-thienyl)ethyl-4 piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl), its optical isomers, salts and salts of isomers;

N-1-benzyl-4-piperidyl]N-phenylpropanamide (other name: benzylfentanyl), its optical isomers, salts and salts of isomers;

N-1-(2-hydroxy-2-phenyl) ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl), its optical isomers, salts and salts of isomers;

~~N-3-methyl-1-(2-hydroxy-2-phenethyl)-4-piperidyl]-N-phenylpropanamide~~ *N-3-methyl-1-(2-hydroxy-2-phenethyl)-4-piperidyl]-N-phenylpropanamide* (other name: ~~beta-hydroxy-3-methylfentanyl~~ *beta-hydroxy-3-methylfentanyl*), its optical and geometric isomers, salts and salts of isomers;

N-(3-methyl-1-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: 3-methylthiofentanyl), its optical and geometric isomers, salts and salts of isomers;

N-1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (other name: ~~thienylfentanyl~~ *thienylfentanyl*), its optical isomers, salts and salts of isomers;

N-phenyl-N-1-(2-thienyl)ethyl-4-piperidyl]-propanamide (other name: thiofentanyl), its optical isomers, salts and salts of isomers;

~~N-(4-fluorophenyl)-N-1-(2-phenethyl)-4-piperidinyl-propanamide~~ *N-(4-fluorophenyl)-N-1-(2-phenethyl)-4-piperidinyl-propanamide* (other name: para-fluorofentanyl), its optical isomers, salts and salts of isomers.

7. Any substance that contains one or more cannabimimetic agents or that contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of one or more cannabimimetic agents.

a. "Cannabimimetic agents" includes any substance that is within any of the following structural classes:

2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent;

3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent;

3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent;

1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent;

3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent;

3-cyclopropoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any extent;

3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent;

N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent; and

N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring, whether or not further substituted on the indazole ring to any extent, whether or not substituted on the adamantyl ring to any extent.

b. The term "cannabimimetic agents" includes:

5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);

5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);

5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);

5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);

1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);

1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);

1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);

1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);

1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);

(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (other name: HU-210);

1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);

1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);

1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);

1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);

1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);

1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);

1-((N-methylpiperidin-2-yl)methyl)-3-(1-naphthoyl)indole (other name: AM-1220);

1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);

1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);

Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other name: WIN 48,098);

1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);

1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);

1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);

1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: XLR-11);

N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);

N-adamantyl-1-pentylindazole-3-carboxamide (other name: AKB48);

1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);

(8-quinolinyl)(1-pentylindol-3-yl)carboxylate (other name: PB-22);

(8-quinolinyl)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);

(8-quinolinyl)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-PINACA);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name: AB-FUBINACA);

1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (*other name: THJ-2201*);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: ADB-PINACA);

*N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name: AB-CHMINACA);*

*N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-AB-PINACA).*

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

**Seizure of property; inventory required.** Requires the agency seizing property to, as soon as practicable, conduct an inventory of the seized property and provide a copy of such inventory to the property owner.

**CHAPTER 769**

*An Act to amend and reenact § [19.2-386.2](#) of the Code of Virginia, relating to seizure of property; inventory required.*

[S 721]

Approved April 30, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [19.2-386.2](#) of the Code of Virginia is amended and reenacted as follows:

§ [19.2-386.2](#). Seizure of named property.

A. When any property subject to seizure under Chapter 22.2 (§ [19.2-386.15](#) et seq.) or other provision under the Code has not been seized at the time an information naming that property is filed, the clerk of the circuit court or a judge of the circuit court, upon motion of the attorney for the Commonwealth wherein the information is filed, shall issue a warrant to the sheriff or other state or local law-enforcement officer authorized to serve criminal process in the jurisdiction where the property is located, describing the property named in the complaint and authorizing its immediate seizure.

B. In all cases of seizure of real property, a notice of lis pendens shall be filed with the clerk of the circuit court of the county or city wherein the property is located and shall be indexed in the land records in the name or names of those persons whose interests appear to be affected thereby.

*C. When any property is seized for the purposes of forfeiture under Chapter 22.2 (§ [19.2-386.15](#) et seq.) or other forfeiture provision under the Code, the agency seizing the property shall, as soon as practicable after the seizure, conduct an inventory of the seized property and shall, as soon as practicable, provide a copy of the inventory to the owner. An agency's failure to provide a copy of an inventory pursuant to this subsection shall not invalidate any forfeiture.*

## CRIMINAL – SUMMARY ONLY

HB1908 and SB1034 - §§ 4.1-100 and 4.1-103 - **Alcoholic beverage control; powdered or crystalline alcohol; penalty.** Adds powdered or crystalline alcohol to the definition of alcoholic beverages, prohibits containers sold in or shipped into the Commonwealth from including powdered or crystalline alcohol, and creates a Class 1 misdemeanor for anyone who purchases, possesses, offers for sale or use, sells, or uses a powdered or crystalline alcohol product. This bill is identical to [SB 1034](#).

HB2228 and SB918 - § 9.1-907 - **Sex Offender and Crimes Against Minors Registry; registration verification.** Provides that the Department of Corrections (the Department) or other supervisory personnel may cause to be physically verified by the State Police the registration information on the Sex Offender and Crimes Against Minors Registry that is required of registrants over whom the Department or the supervisory personnel exercise control. Under current law, physical verification must be carried out by the Department or the supervisory personnel. This bill is identical to [SB 918](#).

HB1277 and SB955 - §§ 3.2-801, 54.1-3401, and adding in Title 3.2 a chapter numbered 41.1, consisting of sections numbered 3.2-4112 through 3.2-4120 - **Industrial hemp production and manufacturing.** Allows the cultivation of industrial hemp by licensed growers as part of a university-managed research program. The bill defines industrial hemp as the plant *Cannabis sativa* with a concentration of THC no greater than that allowed by federal law, excludes industrial hemp from the definition of marijuana in the Drug Control Act, and bars the prosecution of a licensed grower under drug laws for the possession of industrial hemp as part of the research program. The bill directs the Commissioner of the Department of Agriculture and Consumer Services to adopt relevant regulations and establish an industrial hemp research program to be managed by public institutions of higher education. This bill is identical to [SB 955](#).

HB1578 - § 19.2-310.2 - **DNA data bank; State Police to verify receipt of samples from persons on the Sex Offender and Crimes Against Minors Registry.** Requires the Department of State Police to verify receipt of DNA samples by the Department of Forensic Science for persons required to register on the Sex Offender and Crimes Against Minors Registry. The bill also requires the State Police to obtain a DNA sample for such persons if one has not been received by the Department of Forensic Science.

HB1928 and SB1187 - §§ 19.2-310.2 and 19.2-310.7 - **DNA analysis upon conviction of certain misdemeanors.** The bill adds misdemeanor violations of §§ 16.1-253.2 (violation of a protective order), 18.2-60.3 (stalking), 18.2-60.4 (violation of a stalking protective order), 18.2-67.4:1 (infected sexual battery), 18.2-102 (unauthorized use of animal, aircraft, vehicle, or boat valued at less than \$200), 18.2-121 (entering property of another for purpose of damaging it), 18.2-387 (indecent exposure), 18.2-387.1 (obscene sexual display), and 18.2-479.1 (resisting arrest) to the list of offenses for which an adult convicted of such offense must have a sample of his blood, saliva, or tissue taken for DNA analysis. Under current law, a sample is taken for DNA analysis from adults convicted of only five misdemeanor sex offenses: (i) § 18.2-67.4 (sexual battery), (ii) § 18.2-67.4:2 (sexual abuse of a child 13 years of age or older but under 15), (iii) § 18.2-67.5 (attempted sexual battery), (iv) § 18.2-130 (peeping), or (v) § 18.2-370.6 (penetrating the mouth of a child under 13 with the tongue). The bill also increases the fee collected for the withdrawal of the DNA sample from \$25 to \$53. The provisions of the bill apply only to persons convicted on or after July 1, 2015. This bill is identical to [SB 1187](#).

SB961 - § 19.2-389 - **Department of Juvenile Justice; access to criminal history record information.** Adds the Department of Juvenile Justice (DJJ) to the list of entities authorized to receive information from the Virginia Criminal Information Network (VCIN). The bill specifies that DJJ may receive background checks from VCIN in order to complete predispositional and postdispositional reports required by law.

SB832 - § 19.2-53.1 - **Taking blood samples pursuant to search warrant; qualified immunity.** Provides that no cause of action shall lie in any court against any person authorized by law to withdraw blood pursuant to a search warrant issued in accordance with § 19.2-53 when that person is acting in accordance with such warrant, except in cases of negligence in the withdrawing of blood or willful misconduct.

HB1353 and SB1074 - § 9.1-918 - **Supplement to the Sex Offender and Crimes Against Minors Registry (Robby's Rule).** Requires the Superintendent of State Police to establish a Supplement to the Sex Offender and Crimes Against Minors Registry (the Registry) that would include information on persons who were convicted of certain sexual offenses on or after July 1, 1980, and before July 1, 1994, who are not currently on the Registry. The Supplement will be available to the public on the Department of State Police website. Persons whose information is on the Supplement who would be able to petition for removal of their information if they were on the Registry will be able to petition for removal of their information from the Supplement. This bill is identical to [SB 1074](#).

HB2303 - §§ 37.2-910, 37.2-911, 37.2-913 and 37.2-914 - **Sexually violent predators; notice of hearings; conditional release plan.** Requires the Department of Behavioral Health and Developmental Services, in preparing a conditional release plan for a sexually violent predator, to notify the attorney for the Commonwealth, the chief law-enforcement officer, and the local governing body for the locality that is the proposed location of the predator's residence upon his conditional release. The bill also provides that such attorney for the Commonwealth shall receive a copy of any petition (i) for the conditional release of a predator, (ii) to take a conditionally released predator into emergency custody, (iii) for the release of a predator taken into emergency custody, or (iv) to modify or remove conditions on a predator's release.

HB1308 - § 19.2-69 - **Right to privacy in electronic communications; confidential relationship; civil action.** Doubles the amount of liquidated damages that may be recovered against a person who intercepts, discloses, or uses wire, electronic, or oral communications in violation of Virginia's wiretapping law if such communications are between (i) a husband and wife; (ii) an attorney and client; (iii) a licensed practitioner of the healing arts and patient; (iv) a licensed professional counselor, licensed clinical social worker, licensed psychologist, or licensed marriage and family therapist and client; or (v) a clergy member and person seeking spiritual counsel or advice. The bill increases the allowable liquidated damages from \$400 a day for each day of violation or \$4,000, whichever is higher, to \$800 a day or \$8,000, whichever is higher.

HB1955 and SB1232 - §§ 58.1-1000 and 58.1-1007 and adding 3.2-4206.01 - **Administration and enforcement of cigarette laws.** Modifies several provisions relating to the administration and enforcement of Virginia's cigarette laws by prohibiting persons convicted of certain offenses from being authorized holders, requiring the Office of the Attorney General to place on its website a list of individuals ineligible to be an authorized holder, and authorizing additional entities to audit and inspect records of persons receiving, storing, selling, handling, or transporting cigarettes. This bill is a recommendation of the Virginia State Crime Commission and is identical to [SB 1232](#).

HB2036 and SB1325 - § 18.2-371.2 and adding sections numbered 59.1-293.10 and 59.2-293.11 - **Purchase, etc., of tobacco products by minors; liquid nicotine packaging; penalty.** Provides that no person shall sell or distribute at retail a liquid nicotine container on or after October 1, 2015, unless the container is packaged in child-resistant packaging. The bill allows existing inventory to be sold until January 1, 2016. Any person who violates the child-resistant packaging requirements is guilty of a Class 4 misdemeanor. The bill also provides that any adult may sign for tobacco products, nicotine vapor products, or alternative nicotine products purchased through mail order or the Internet. Current law requires the signature of the purchaser. This bill is identical to [SB 1325](#).

SB712 and HB1930 - Adding sections numbered 23-9.2:15, 23-9.2:16 and 23-9.2:17 - **Institutions of higher education; reporting acts of sexual violence.** Requires any responsible employee of a public or private nonprofit institution of higher education who in the course of his employment obtains information that an act of sexual violence has been committed against a student or on campus property or other property related to the institution to report such information to the Title IX coordinator for the institution as soon as practicable. The bill requires the Title IX coordinator to report such information to a review committee, which shall meet within 72 hours of the receipt of information of an alleged act of sexual violence and which shall include the Title IX coordinator, a representative of law enforcement, and a student affairs representative. If the review committee determines that disclosure of the information regarding the alleged act of sexual violence is necessary to protect the health and

safety of the victim or other individuals, the representative of law enforcement on the review committee shall disclose the information, including personally identifiable information, to the law-enforcement agency responsible for investigating the alleged act. In cases involving a felony sexual assault, the representative of law enforcement on the review committee, or in certain situations, another committee member, shall consult with the local attorney for the Commonwealth or other prosecutor responsible for prosecuting the alleged act of sexual violence.

The bill requires the governing board of each public or private nonprofit institution of higher education to (i) establish a written memorandum of understanding with a local sexual assault crisis center or other victim support service and (ii) adopt policies to provide victims with information on contacting such center or service. The bill requires each public or private nonprofit institution of higher education to annually certify to the State Council of Higher Education for Virginia that it has reviewed its sexual violence policy. Finally, the bill requires the Department of Criminal Justice Services to monitor the impact the legislation will have on the workload of local victim witness programs and report its findings to the Chairmen of the House and Senate Committees for Courts of Justice by October 1, 2016. This bill is identical to [HB 1930](#).

## FIREARMS – FULL TEXT

**Firearms, other weapons on school property.** Amends the statute that makes it a crime to possess a firearm, stun weapon, knife, or certain other weapons on school property to require that the person knowingly possess the firearm or other weapon.

### CHAPTER 289

An Act to amend and reenact § [18.2-308.1](#) of the Code of Virginia, relating to possession of firearm, stun weapon, or other weapon on school property.

[S 1191]

Approved March 17, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [18.2-308.1](#) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-308.1](#). Possession of firearm, stun weapon, or other weapon on school property prohibited; penalty.

A. If any person *knowingly* possesses any (i) stun weapon as defined in this section; (ii) knife, except a pocket knife having a folding metal blade of less than three inches; or (iii) weapon, including a weapon of like kind, designated in subsection A of § [18.2-308](#), other than a firearm; upon (a) the property of any public, private or religious elementary, middle or high school, including buildings and grounds; (b) that portion of any property open to the public and then exclusively used for school-sponsored functions or extracurricular activities while such functions or activities are taking place; or (c) any school bus owned or operated by any such school, he shall be guilty of a Class 1 misdemeanor.

B. If any person *knowingly* possesses any firearm designed or intended to expel a projectile by action of an explosion of a combustible material while such person is upon (i) any public, private or religious elementary, middle or high school, including buildings and grounds; (ii) that portion of any property open to the public and then exclusively used for school-sponsored functions or extracurricular activities while such functions or activities are taking place; or (iii) any school bus owned or operated by any such school, he shall be guilty of a Class 6 felony.

C. If any person *knowingly* possesses any firearm designed or intended to expel a projectile by action of an explosion of a combustible material within a public, private or religious elementary, middle or high school building and intends to use, or attempts to use, such firearm, or displays such weapon in a threatening manner, such person shall be guilty of a Class 6 felony and sentenced to a mandatory minimum term of imprisonment of five years to be served consecutively with any other sentence.

The exemptions set out in § [18.2-308](#) shall apply, *mutatis mutandis*, to the provisions of this section. The provisions of this section shall not apply to (i) persons who possess such weapon or weapons as a part of the school's curriculum or activities; (ii) a person possessing a knife customarily used for food preparation or service and using it for such purpose; (iii) persons who possess such weapon or weapons as a part of any program sponsored or facilitated by either the school or any organization authorized by the school to conduct its programs either on or off the school premises; (iv) any law-enforcement officer; (v) any person who possesses a knife or blade which he uses customarily in his trade; (vi) a person who possesses an unloaded firearm that is in a closed container, or a knife having a metal blade, in or upon a motor vehicle, or an unloaded shotgun or rifle in a firearms rack in or upon a motor vehicle; (vii) a person who has a valid concealed handgun permit and possesses a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other means of vehicular ingress or egress to the school; or (viii) an armed security officer, licensed pursuant to Article 4 (§ [9.1-138](#) et seq.) of Chapter 1 of Title 9.1, hired by a private or religious school for the protection of students and employees as authorized by such school. For the purposes of this paragraph, "weapon" includes a knife having a metal blade of three inches or longer and "closed container" includes a locked vehicle trunk.

As used in this section:

"Stun weapon" means any device that emits a momentary or pulsed output, which is electrical, audible, optical or electromagnetic in nature and which is designed to temporarily incapacitate a person.

**Possession, etc., of firearms, etc., by convicted felons; restoration of rights.** Provides that the prohibition on the possession and transportation of firearms and ammunition by convicted felons does not apply to a felon whose right to possess firearms or ammunition has been restored under the law of another state.

#### CHAPTER 767

An Act to amend and reenact § [18.2-308.2](#) of the Code of Virginia, relating to possession of firearms, etc., by convicted felons; restoration of rights.

[H 2286]

Approved April 30, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [18.2-308.2](#) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-308.2](#). Possession or transportation of firearms, firearms ammunition, stun weapons, explosives or concealed weapons by convicted felons; penalties; petition for permit; when issued.

A. It shall be unlawful for (i) any person who has been convicted of a felony; (ii) any person adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of murder in violation of § [18.2-31](#) or [18.2-32](#), kidnapping in violation of § [18.2-47](#), robbery by the threat or presentation of firearms in violation of § [18.2-58](#), or rape in violation of § [18.2-61](#); or (iii) any person under the age of 29 who was adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act which would be a felony if committed by an adult, other than those felonies set forth in clause (ii), whether such conviction or adjudication occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, to knowingly and intentionally possess or transport any firearm or ammunition for a firearm, any stun weapon as defined by § [18.2-308.1](#), or any explosive material, or to knowingly and intentionally carry about his person, hidden from common observation, any weapon described in subsection A of § [18.2-308](#). However, such person may possess in his residence or the curtilage thereof a stun weapon as defined by § [18.2-308.1](#). Any person who violates this section shall be guilty of a Class 6 felony. However, any person who violates this section by knowingly and intentionally possessing or transporting any firearm and who was previously convicted of a violent felony as defined in § [17.1-805](#) shall be sentenced to a mandatory minimum term of imprisonment of five years. Any person who violates this section by knowingly and intentionally possessing or transporting any firearm and who was previously convicted of any other felony within the prior 10 years shall be sentenced to a mandatory minimum term of imprisonment of two years. The mandatory minimum terms of imprisonment prescribed for violations of this section shall be served consecutively with any other sentence.

B. The prohibitions of subsection A shall not apply to (i) any person who possesses a firearm, ammunition for a firearm, explosive material or other weapon while carrying out his duties as a member of the Armed Forces of the United States or of the National Guard of Virginia or of any other state, (ii) any law-enforcement officer in the performance of his duties, ~~or~~ (iii) any person who has been pardoned or whose political disabilities have been removed pursuant to Article V, Section 12 of the Constitution of Virginia provided the Governor, in the document granting the pardon or removing the person's political disabilities, may expressly place conditions upon the reinstatement of the person's right to ship, transport, possess or receive firearms, or (iv) any person whose right to possess firearms or ammunition has been restored under the law of another state subject to conditions placed upon the reinstatement of the person's right to ship, transport, possess, or receive firearms by such state.

C. Any person prohibited from possessing, transporting or carrying a firearm or stun weapon under subsection A, may petition the circuit court of the jurisdiction in which he resides for a permit to possess or carry a firearm or stun weapon; however, no person who has been convicted of a felony shall be qualified to petition for such a permit unless his civil rights have been restored by the Governor or other appropriate authority. A copy of the petition shall be mailed or delivered to the attorney for the Commonwealth for the jurisdiction where the petition was filed who shall be entitled to respond and represent the interests of the Commonwealth. The court shall conduct a hearing if requested by either party. The court may, in its discretion and for good cause shown, grant such petition and issue a

permit. The provisions of this section relating to firearms, ammunition for a firearm, and stun weapons shall not apply to any person who has been granted a permit pursuant to this subsection.

C1. Any person who was prohibited from possessing, transporting or carrying explosive material under subsection A may possess, transport or carry such explosive material if his right to possess, transport or carry explosive material has been restored pursuant to federal law.

D. For the purpose of this section:

"Ammunition for a firearm" means the combination of a cartridge, projectile, primer, or propellant designed for use in a firearm other than an antique firearm as defined in § [18.2-308.2:2](#).

"Explosive material" means any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, smokeless gun powder, detonators, blasting caps and detonating cord but shall not include fireworks or permissible fireworks as defined in § [27-95](#).

## **FIREARMS – SUMMARY ONLY**

HB1666 - § 18.2-308.2 - **Firearms; restoration of rights; venue.** Permits a nonresident of the Commonwealth prohibited from possessing a firearm, ammunition, or a stun weapon because of a felony conviction or a juvenile adjudication of delinquency of certain offenses to petition the circuit court where his last felony conviction or adjudication of delinquency occurred for restoration of his right to possess, transport, or carry a firearm, ammunition, or a stun weapon. Current law does not provide for venue for a nonresident's restoration petition.

SB936 - §§ 15.2-1721, 30-34.2:2 and 52-11.5 - **Unclaimed firearms; donation to Department of Forensic Science.** Permits localities, the Capitol Police, and the State Police to donate unclaimed firearms to the Department of Forensic Science. The bill also extends from 60 to 120 days the period for which various law-enforcement agencies must retain unclaimed firearms before destroying or donating such firearms.

HB1702 - § 18.2-308.2:2 - **Transfer, etc., of firearms from licensed dealer; criminal history record information.** Provides that a licensed firearms dealer may perform a criminal history record information check before selling, renting, trading, or transferring any firearm owned by the dealer that is not in his inventory. Current law requires that a dealer perform such a check only if the firearm is from the dealer's inventory.

## MISCELLANEOUS – FULL TEXT

**Workplace safety; employer reporting requirements.** Requires employers to notify the Virginia Department of Labor and Industry of any work-related hospitalization, amputation, or loss of an eye. Existing law requires employers to report hospitalizations involving three or more employees and does not specifically address reporting an amputation or enucleation.

### CHAPTER 270

*An Act to amend and reenact § [40.1-51.1](#) of the Code of Virginia, relating to workplace safety; employer reporting requirements.*

[H 1681]

Approved March 17, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [40.1-51.1](#) of the Code of Virginia is amended and reenacted as follows:

§ [40.1-51.1](#). Duties of employers.

A. It shall be the duty of every employer to furnish to each of his employees safe employment and a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees, and to comply with all applicable occupational safety and health rules and regulations promulgated under this title.

B. Every employer shall provide to employees by such suitable means as shall be prescribed in rules and regulations of the Safety and Health Codes Board, information regarding their exposure to toxic materials or harmful physical agents and prompt information when they are exposed to concentration or levels of toxic materials or harmful physical agents in excess of those prescribed by the applicable safety and health standards and shall provide employees or their representatives with the opportunity to observe monitoring or measuring of exposures. Every employer shall also inform any employee who is being exposed of the corrective action being taken and shall provide former employees with access to information about their exposure to toxic materials or harmful physical agents.

C. Every employer cited for a violation of any safety and health provisions of this title or standards, rules and regulations promulgated thereunder shall post a copy of such citation at the site of the violations so noted as prescribed in the rules and regulations of the Safety and Health Codes Board.

D. Every employer shall report to the Virginia Department of Labor and Industry within eight hours any work-related incident resulting in *(i) a fatality* ~~or in~~, *(ii) the in-patient inpatient hospitalization of ~~three~~ one or more persons*, *(iii) an amputation*, or *(iv) the loss of an eye*, as prescribed in the rules and regulations of the Safety and Health Codes Board.

E. Every employer, through posting of notices or other appropriate means, shall keep his employees informed of their rights and responsibilities under this title and of specific safety and health standards applicable to his business establishment.

F. An employer representative shall be given the opportunity to accompany the safety and health inspectors on safety or health inspections.

G. Nothing in this section shall be construed to limit the authority of the Commissioner pursuant to § [40.1-6](#) or the Board pursuant to § [40.1-22](#) to promulgate necessary rules and regulations to protect and promote the safety and health of employees.

**Prescription Monitoring Program; subpoenas.** Provides that records in possession of the Prescription Monitoring Program shall not be available for civil subpoena, nor shall such records be disclosed, discoverable, or compelled to be produced in any civil proceeding, nor shall such records be deemed admissible as evidence in any civil proceeding for any reason.

#### CHAPTER 507

An Act to amend and reenact § [54.1-2523](#) of the Code of Virginia, relating to Prescription Monitoring Program; subpoenas.

[H 1810]

Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [54.1-2523](#) of the Code of Virginia is amended and reenacted as follows:

§ [54.1-2523](#). Confidentiality of data; disclosure of information; discretionary authority of Director.

A. All data, records, and reports relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such data, records, and reports that are in the possession of the Prescription Monitoring Program pursuant to this chapter and any material relating to the operation or security of the program shall be confidential and shall be exempt from the Virginia Freedom of Information Act (§ [2.2-3700](#) et seq.) pursuant to subdivision 15 of § [2.2-3705.5](#). *Records in possession of the Prescription Monitoring Program shall not be available for civil subpoena, nor shall such records be disclosed, discoverable, or compelled to be produced in any civil proceeding, nor shall such records be deemed admissible as evidence in any civil proceeding for any reason.* Further, the Director shall only have discretion to disclose any such information as provided in subsections B and C.

B. Upon receiving a request for information in accordance with the Department's regulations and in compliance with applicable federal law and regulations, the Director shall disclose the following:

1. Information relevant to a specific investigation of a specific recipient or of a specific dispenser or prescriber to an agent who has completed the Virginia State Police Drug Diversion School designated by the superintendent of the Department of State Police or designated by the chief law-enforcement officer of any county, city, or town or campus police department to conduct drug diversion investigations pursuant to § [54.1-3405](#).

2. Information relevant to an investigation or inspection of or allegation of misconduct by a specific person licensed, certified, or registered by or an applicant for licensure, certification, or registration by a health regulatory board; information relevant to a disciplinary proceeding before a health regulatory board or in any subsequent trial or appeal of an action or board order to designated employees of the Department of Health Professions; or to designated persons operating the Health Practitioners' Monitoring Program pursuant to Chapter 25.1 (§ [54.1-2515](#) et seq.).

3. Information relevant to the proceedings of any investigatory grand jury or special grand jury that has been properly impaneled in accordance with the provisions of Chapter 13 (§ [19.2-191](#) et seq.) of Title 19.2.

4. Information relevant to a specific investigation of a specific recipient, dispenser, or prescriber to an agent of a federal law-enforcement agency with authority to conduct drug diversion investigations.

C. In accordance with the Department's regulations and applicable federal law and regulations, the Director may, in his discretion, disclose:

1. Information in the possession of the program concerning a recipient who is over the age of 18 to that recipient. The information shall be mailed to the street or mailing address indicated on the recipient request form.

2. Information on a specific recipient to a prescriber, as defined in this chapter, for the purpose of establishing the treatment history of the specific recipient when such recipient is either under care and treatment by the prescriber or the prescriber is initiating treatment of such recipient. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the prescriber from the Prescription Monitoring Program.

3. Information on a specific recipient to a dispenser for the purpose of establishing a prescription history to assist the dispenser in determining the validity of a prescription in accordance with § [54.1-3303](#) when the recipient is seeking a covered substance from the dispenser or the facility in which the dispenser practices. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the dispenser from the Prescription Monitoring Program.

4. Information relevant to an investigation or regulatory proceeding of a specific dispenser or prescriber to other regulatory authorities concerned with granting, limiting or denying licenses, certificates or registrations to practice a health profession when such regulatory authority licenses such dispenser or prescriber or such dispenser or prescriber is seeking licensure by such other regulatory authority.

5. Information relevant to an investigation relating to a specific dispenser or prescriber who is a participating provider in the Virginia Medicaid program or information relevant to an investigation relating to a specific recipient who is currently eligible for and receiving or who has been eligible for and has received medical assistance services to the Medicaid Fraud Control Unit of the Office of the Attorney General or to designated employees of the Department of Medical Assistance Services, as appropriate.

6. Information relevant to determination of the cause of death of a specific recipient to the designated employees of the Office of the Chief Medical Examiner.

7. Information for the purpose of bona fide research or education to qualified personnel; however, data elements that would reasonably identify a specific recipient, prescriber, or dispenser shall be deleted or redacted from such information prior to disclosure. Further, release of the information shall only be made pursuant to a written agreement between such qualified personnel and the Director in order to ensure compliance with this subdivision.

8. Information relating to prescriptions for covered substances issued by a specific prescriber, which have been dispensed and reported to the Program, to that prescriber.

D. The Director may enter into agreements for mutual exchange of information among prescription monitoring programs in other jurisdictions, which shall only use the information for purposes allowed by this chapter.

E. This section shall not be construed to supersede the provisions of § [54.1-3406](#) concerning the divulging of confidential records relating to investigative information.

F. Confidential information that has been received, maintained or developed by any board or disclosed by the board pursuant to subsection A shall not, under any circumstances, be available for discovery or court subpoena or introduced into evidence in any medical malpractice suit or other action for damages arising out of the provision of or failure to provide services. However, this subsection shall not be construed to inhibit any investigation or prosecution conducted pursuant to Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 of Title 18.2.

**Law-enforcement access to involuntary admission and incapacity information.** Provides that certain information related to persons adjudicated incapacitated or ordered to involuntary inpatient or outpatient treatment or to persons who were subject to a temporary detention order who agreed to voluntary admission may be disseminated to a full-time or part-time employee of a law-enforcement agency for purposes of the administration of criminal justice.

#### CHAPTER 540

*An Act to amend and reenact §§ [19.2-389](#), [37.2-819](#), and [64.2-2014](#) of the Code of Virginia, relating to law-enforcement access to involuntary admission and incapacity information.*

[S 1264]

Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ [19.2-389](#), [37.2-819](#), and [64.2-2014](#) of the Code of Virginia are amended and reenacted as follows:

§ [19.2-389](#). Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § [9.1-101](#), for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § [53.1-136](#) shall include collective dissemination by electronic means every 30 days. *For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ [37.2-819](#) and [64.2-2014](#) when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;*
2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;
3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;
4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;
5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;
7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;
- 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ [33.2-1900](#) et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;
8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ [63.2-901.1](#) and [63.2-1505](#), subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;
9. To the extent permitted by federal law or regulation, public service companies as defined in § [56-1](#), for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;
10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;
11. A person requesting a copy of his own criminal history record information as defined in § [9.1-101](#) at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § [15.2-1713.1](#);
12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § [63.2-100](#) for dissemination to the Commissioner of Social Services' representative pursuant to § [63.2-1702](#) for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day care homes or homes approved by family day care systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ [63.2-1719](#), [63.2-1720](#), and [63.2-1721](#), subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;
13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § [19.2-83.1](#);
14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ [58.1-4000](#) et seq.), and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ [18.2-340.15](#) et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § [32.1-126.01](#), hospital pharmacies pursuant to § [32.1-126.02](#), and home care organizations pursuant to § [32.1-162.9:1](#), subject to the limitations set out in subsection E;
16. Licensed homes for adults, licensed district homes for adults, and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed homes for adults pursuant to § [63.2-1720](#), in licensed district homes for adults pursuant to § [63.1-189.1](#), and in licensed adult day care centers pursuant to § [63.2-1720](#), subject to the limitations set out in subsection F;
17. The Alcoholic Beverage Control Board for the conduct of investigations as set forth in § [4.1-103.1](#);
18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § [24.2-110](#) in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;
19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ [19.2-169.2](#), [19.2-169.6](#), [19.2-182.2](#), [19.2-182.3](#), [19.2-182.8](#), and [19.2-182.9](#) for the purpose of placement, evaluation, and treatment planning;
20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § [46.2-360](#), (ii) interventions with first offenders under § [18.2-251](#), or (iii) services to offenders under § [18.2-51.4](#), [18.2-266](#), or [18.2-266.1](#);
21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;
22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;
23. Pursuant to § [22.1-296.3](#), the governing boards or administrators of private or religious elementary or secondary schools which are accredited by a statewide accrediting organization recognized, prior to January 1, 1996, by the State Board of Education or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;
24. Public and nonprofit private colleges and universities for the purpose of screening individuals who are offered or accept employment;
25. Members of a threat assessment team established by a public institution of higher education pursuant to § [23-9.2:10](#) or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;
26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment pursuant to §§ [37.2-506](#) and [37.2-607](#);
27. Executive directors of behavioral health authorities as defined in § [37.2-600](#) for the purpose of determining an individual's fitness for employment pursuant to §§ [37.2-506](#) and [37.2-607](#);
28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ [37.2-403](#) et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ [37.2-416](#), [37.2-506](#), and [37.2-607](#);
30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ [46.2-2000](#) et seq.) and 21 (§ [46.2-2100](#) et seq.) of Title 46.2;
31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;
32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § [2.2-1201.1](#). Dissemination of criminal history record information to the agencies shall be limited to those positions generally described as directly responsible for the health, safety and welfare of the general populace or protection of critical infrastructures;
33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ [37.2-900](#) et seq.);
34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;
35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;
36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § [63.2-1601.1](#), subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;
37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;
38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ [6.2-1600](#) et seq.) or Chapter 19 (§ [6.2-1900](#) et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;
39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § [54.1-2106.1](#);

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ [51.5-170](#) et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § [19.2-120](#);

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § [8.01-195.12](#);

43. The Department of Social Services and directors of local departments of social services for the purpose of screening individuals seeking to enter into a contract with the Department of Social Services or a local department of social services for the provision of child care services for which child care subsidy payments may be provided; and

44. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § [15.2-1722](#).

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ [32.1-126.01](#), [32.1-126.02](#), and [32.1-162.9:1](#).

F. Criminal history information provided to licensed assisted living facilities, licensed district homes for adults, and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § [63.1-189.1](#) or [63.2-1720](#).

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense specified in § [63.2-1719](#).

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

§ [37.2-819](#). Order of involuntary admission or mandatory outpatient treatment forwarded to CCRE; certain voluntary admissions forwarded to CCRE; firearm background check.

A. The order from a commitment hearing issued pursuant to this chapter for involuntary admission or mandatory outpatient treatment and the certification of any person who has been the subject of a temporary detention order pursuant to § [37.2-809](#) and who, after being advised by the judge or special justice that he will be prohibited from possessing a firearm pursuant to § [18.2-308.1:3](#), subsequently agreed to voluntary admission pursuant to § [37.2-805](#) shall be filed by the judge or special justice with the clerk of the district court for the county or city where the hearing took place as soon as practicable but no later than the close of business on the next business day following the completion of the hearing.

B. Upon receipt of any order from a commitment hearing issued pursuant to this chapter for involuntary admission to a facility, the clerk of court shall, as soon as practicable but not later than the close of business on the next following business day, certify and forward to the Central Criminal Records Exchange, on a form provided by the Exchange, a copy of the order. Upon receipt of any order from a commitment hearing issued pursuant to this chapter for mandatory outpatient treatment, the clerk of court shall, prior to the close of that business day, certify and forward to the Central Criminal Records Exchange, on a form provided by the Exchange, a copy of the order.

C. The clerk of court shall also, as soon as practicable but no later than the close of business on the next following business day, forward upon receipt to the Central Criminal Records Exchange, on a form provided by the Exchange, certification of any person who has been the subject of a temporary detention order pursuant to § [37.2-809](#), and who, after being advised by the judge or special justice that he will be prohibited from possessing a firearm pursuant to § [18.2-308.1:3](#), subsequently agreed to voluntary admission pursuant to § [37.2-805](#).

D. ~~The~~ Except as provided in subdivision A 1 of § [19.2-389](#), the copy of the forms and orders sent to the Central Criminal Records Exchange pursuant to subsection B, and the forms and certifications sent to the Central Criminal Records Exchange regarding voluntary admission pursuant to subsection C, shall be kept confidential in a separate file and used only to determine a person's eligibility to possess, purchase, or transfer a firearm. No medical records shall be forwarded to the Central Criminal Records Exchange with any form, order, or certification required by subsection B or C. The Department of State Police shall forward only a person's eligibility to possess, purchase, or transfer a firearm to the National Instant Criminal Background Check System.

§ [64.2-2014](#). Clerk to index findings of incapacity or restoration; notice of findings.

A. A copy of the court's findings that a person is incapacitated or has been restored to capacity, or a copy of any order appointing a conservator or guardian pursuant to § [64.2-2115](#), shall be filed by the judge with the clerk of the circuit court for the county or city where the hearing took place as soon as practicable, but no later than the close of business on the next business day following the completion of the hearing. The clerk shall properly index the findings in the index to deed books by reference to the order book and page whereon the order is spread and shall immediately notify the Commissioner of Behavioral Health and Developmental Services in accordance with § [64.2-2028](#), the commissioner of accounts in order to ensure compliance by a conservator with the duties imposed pursuant to §§ [64.2-2021](#), [64.2-2022](#), [64.2-2023](#), and [64.2-2026](#), and the Commissioner of Elections with the information required by § [24.2-410](#). If a guardian is appointed, the clerk shall forward a copy of the court order to

the local department of social services of the jurisdiction where the person then resides. If a guardianship is terminated or otherwise modified, the clerk shall forward a copy of the court order to the local department of social services to which the original order of appointment was forwarded and, if different, to the local department of social services in the jurisdiction where the person then resides.

B. The clerk shall, as soon as practicable, but no later than the close of business on the following business day, certify and forward upon receipt to the Central Criminal Records Exchange, on a form provided by the Exchange, a copy of any order adjudicating a person incapacitated under this article, any order appointing a conservator or guardian pursuant to § [64.2-2115](#), and any order of restoration of capacity under § [64.2-2012](#). ~~The~~ *Except as provided in subdivision A 1 of § [19.2-389](#), the copy of the form and the order shall be kept confidential in a separate file and used only to determine a person's eligibility to possess, purchase, or transfer a firearm.*

**Temporary detention for testing, observation, and treatment of person who is the subject of an emergency custody order.** Provides that a court or magistrate may issue an order for temporary detention for medical testing, observation, and treatment for a person who is also the subject of an emergency custody order for evaluation and treatment of mental illness. Upon completion of any required testing, observation, or treatment, the hospital emergency room or other appropriate facility in which the person is temporarily detained shall notify the nearest community services board, and a designee of the community services board shall complete the evaluation as soon as is practicable but prior to the expiration of the order for temporary detention for testing, observation, or treatment.

#### CHAPTER 659

*An Act to amend and reenact §§ [37.2-808](#) and [37.2-1104](#) of the Code of Virginia, relating to temporary detention for testing, observation, and treatment of a person who is the subject of an emergency custody order.*

[S 1114]

Approved March 26, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ [37.2-808](#) and [37.2-1104](#) of the Code of Virginia are amended and reenacted as follows:

§ [37.2-808](#). Emergency custody; issuance and execution of order.

A. Any magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or upon his own motion, an emergency custody order when he has probable cause to believe that any person (i) has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, (ii) is in need of hospitalization or treatment, and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment. Any emergency custody order entered pursuant to this section shall provide for the disclosure of medical records pursuant to § [37.2-804.2](#). This subsection shall not preclude any other disclosures as required or permitted by law.

When considering whether there is probable cause to issue an emergency custody order, the magistrate may, in addition to the petition, consider (1) the recommendations of any treating or examining physician or psychologist licensed in Virginia, if available, (2) any past actions of the person, (3) any past mental health treatment of the person, (4) any relevant hearsay evidence, (5) any medical records available, (6) any affidavits submitted, if the witness is unavailable and it so states in the affidavit, and (7) any other information available that the magistrate considers relevant to the determination of whether probable cause exists to issue an emergency custody order.

B. Any person for whom an emergency custody order is issued shall be taken into custody and transported to a convenient location to be evaluated to determine whether the person meets the criteria for temporary detention pursuant to § [37.2-809](#) and to assess the need for hospitalization or treatment. The evaluation shall be made by a person designated by the community services board who is skilled in the diagnosis and treatment of mental illness and who has completed a certification program approved by the Department.

C. The magistrate issuing an emergency custody order shall specify the primary law-enforcement agency and jurisdiction to execute the emergency custody order and provide transportation. However, in cases in which the emergency custody order is based upon a finding that the person who is the subject of the order has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs but there is no substantial likelihood that the person will cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, the magistrate shall consider any request to authorize transportation by an alternative transportation provider in accordance with this section, whenever an alternative transportation provider is identified to the magistrate, which may be a person, facility, or agency, including a family member or friend of the person who is the subject of the order, a representative of the community services board, or other transportation provider with personnel trained to provide transportation in a safe manner, upon determining, following consideration of information provided by the petitioner; the community services board or its designee; the local law-enforcement agency, if any; the person's

treating physician, if any; or other persons who are available and have knowledge of the person, and, when the magistrate deems appropriate, the proposed alternative transportation provider, either in person or via two-way electronic video and audio or telephone communication system, that the proposed alternative transportation provider is available to provide transportation, willing to provide transportation, and able to provide transportation in a safe manner. When transportation is ordered to be provided by an alternative transportation provider, the magistrate shall order the specified primary law-enforcement agency to execute the order, to take the person into custody, and to transfer custody of the person to the alternative transportation provider identified in the order. In such cases, a copy of the emergency custody order shall accompany the person being transported pursuant to this section at all times and shall be delivered by the alternative transportation provider to the community services board or its designee responsible for conducting the evaluation. The community services board or its designee conducting the evaluation shall return a copy of the emergency custody order to the court designated by the magistrate as soon as is practicable. Delivery of an order to a law-enforcement officer or alternative transportation provider and return of an order to the court may be accomplished electronically or by facsimile.

Transportation under this section shall include transportation to a medical facility as may be necessary to obtain emergency medical evaluation or treatment that shall be conducted immediately in accordance with state and federal law. Transportation under this section shall include transportation to a medical facility for a medical evaluation if a physician at the hospital in which the person subject to the emergency custody order may be detained requires a medical evaluation prior to admission.

D. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the magistrate shall order the primary law-enforcement agency from the jurisdiction served by the community services board that designated the person to perform the evaluation required in subsection B to execute the order and, in cases in which transportation is ordered to be provided by the primary law-enforcement agency, provide transportation. If the community services board serves more than one jurisdiction, the magistrate shall designate the primary law-enforcement agency from the particular jurisdiction within the community services board's service area where the person who is the subject of the emergency custody order was taken into custody or, if the person has not yet been taken into custody, the primary law-enforcement agency from the jurisdiction where the person is presently located to execute the order and provide transportation.

E. The law-enforcement agency or alternative transportation provider providing transportation pursuant to this section may transfer custody of the person to the facility or location to which the person is transported for the evaluation required in subsection B, G, or H if the facility or location (i) is licensed to provide the level of security necessary to protect both the person and others from harm, (ii) is actually capable of providing the level of security necessary to protect the person and others from harm, and (iii) in cases in which transportation is provided by a law-enforcement agency, has entered into an agreement or memorandum of understanding with the law-enforcement agency setting forth the terms and conditions under which it will accept a transfer of custody, provided, however, that the facility or location may not require the law-enforcement agency to pay any fees or costs for the transfer of custody.

F. A law-enforcement officer may lawfully go or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for the purpose of executing an emergency custody order pursuant to this section.

G. A law-enforcement officer who, based upon his observation or the reliable reports of others, has probable cause to believe that a person meets the criteria for emergency custody as stated in this section may take that person into custody and transport that person to an appropriate location to assess the need for hospitalization or treatment without prior authorization. A law-enforcement officer who takes a person into custody pursuant to this subsection or subsection H may lawfully go or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for the purpose of obtaining the assessment. Such evaluation shall be conducted immediately. The period of custody shall not exceed eight hours from the time the law-enforcement officer takes the person into custody.

H. A law-enforcement officer who is transporting a person who has voluntarily consented to be transported to a facility for the purpose of assessment or evaluation and who is beyond the territorial limits of the county, city, or

town in which he serves may take such person into custody and transport him to an appropriate location to assess the need for hospitalization or treatment without prior authorization when the law-enforcement officer determines (i) that the person has revoked consent to be transported to a facility for the purpose of assessment or evaluation, and (ii) based upon his observations, that probable cause exists to believe that the person meets the criteria for emergency custody as stated in this section. The period of custody shall not exceed eight hours from the time the law-enforcement officer takes the person into custody.

I. Nothing herein shall preclude a law-enforcement officer or alternative transportation provider from obtaining emergency medical treatment or further medical evaluation at any time for a person in his custody as provided in this section.

J. A representative of the primary law-enforcement agency specified to execute an emergency custody order or a representative of the law-enforcement agency employing a law-enforcement officer who takes a person into custody pursuant to subsection G or H shall notify the community services board responsible for conducting the evaluation required in subsection B, G, or H as soon as practicable after execution of the emergency custody order or after the person has been taken into custody pursuant to subsection G or H.

K. The person shall remain in custody until a temporary detention order is issued, until the person is released, or until the emergency custody order expires. An emergency custody order shall be valid for a period not to exceed eight hours from the time of execution.

*L. Nothing in this section shall preclude the issuance of an order for temporary detention for testing, observation, or treatment pursuant to § [37.2-1104](#) for a person who is also the subject of an emergency custody order issued pursuant to this section. In any case in which an order for temporary detention for testing, observation, or treatment is issued for a person who is also the subject of an emergency custody order, the person may be detained by a hospital emergency room or other appropriate facility for testing, observation, and treatment for a period not to exceed 24 hours, unless extended by the court as part of an order pursuant to § [37.2-1101](#), in accordance with subsection A of § [37.2-1104](#). Upon completion of testing, observation, or treatment pursuant to § [37.2-1104](#), the hospital emergency room or other appropriate facility in which the person is detained shall notify the nearest community services board, and the designee of the community services board shall, as soon as is practicable and prior to the expiration of the order for temporary detention issued pursuant to § [37.2-1104](#), conduct an evaluation of the person to determine if he meets the criteria for temporary detention pursuant to § [37.2-809](#).*

M. Any person taken into emergency custody pursuant to this section shall be given a written summary of the emergency custody procedures and the statutory protections associated with those procedures.

~~M-N.~~ If an emergency custody order is not executed within eight hours of its issuance, the order shall be void and shall be returned unexecuted to the office of the clerk of the issuing court or, if such office is not open, to any magistrate serving the jurisdiction of the issuing court.

~~N-O.~~ (Expires June 30, 2018) In addition to the eight-hour period of emergency custody set forth in subsection G, H, or K, if the individual is detained in a state facility pursuant to subsection E of § [37.2-809](#), the state facility and an employee or designee of the community services board as defined in § [37.2-809](#) may, for an additional four hours, continue to attempt to identify an alternative facility that is able and willing to provide temporary detention and appropriate care to the individual.

~~O-P.~~ Payments shall be made pursuant to § [37.2-804](#) to licensed health care providers for medical screening and assessment services provided to persons with mental illnesses while in emergency custody.

§ [37.2-1104](#). Temporary detention in hospital for testing, observation or treatment.

A. Upon the advice of a licensed physician who has attempted to obtain consent and upon a finding of probable cause to believe that an adult person within the court's jurisdiction is incapable of making an informed decision regarding treatment of a physical or mental ~~disorder~~ condition or is incapable of communicating such a decision due

to a physical or mental ~~disorder~~ *condition* and that the medical standard of care calls for testing, observation, or treatment ~~of the disorder~~ within the next 24 hours to prevent death, *or disability, or a serious irreversible to treat an emergency medical condition that requires immediate action to avoid harm, injury, or death*, the court or, if the court is unavailable, a magistrate serving the jurisdiction may issue an order authorizing temporary detention of the person by a hospital emergency room or other appropriate facility and authorizing such testing, observation, or treatment. The detention may not be for a period exceeding 24 hours, unless extended by the court as part of an order authorizing treatment under § [37.2-1101](#). If, before completion of authorized testing, observation, or treatment, the physician determines that a person subject to an order under this subsection has become capable of making and communicating an informed decision, the physician shall rely on the person's decision on whether to consent to further testing, observation, or treatment. If, before issuance of an order under this subsection or during its period of effectiveness, the physician learns of an objection by a member of the person's immediate family to the testing, observation, or treatment, he shall so notify the court or magistrate, who shall consider the objection in determining whether to issue, modify, or terminate the order.

*B. A court or, if the court is unavailable, a magistrate serving the jurisdiction may issue an order authorizing temporary detention for testing, observation, or treatment for a person who is also the subject of an emergency custody order issued pursuant to § [37.2-808](#), if such person meets the criteria set forth in subsection A. In any case in which an order for temporary detention for testing, observation, or treatment is issued for a person who is also the subject of an emergency custody order pursuant to § [37.2-808](#), the hospital emergency room or other appropriate facility in which the person is detained for testing, observation, or treatment shall notify the nearest community services board when such testing, observation, or treatment is complete, and the designee of the community services board shall, as soon as is practicable and prior to the expiration of the order for temporary detention issued pursuant to subsection A, conduct an evaluation of the person to determine if he meets the criteria for temporary detention pursuant to § [37.2-809](#).*

## MISCELLANEOUS – SUMMARY ONLY

HB1401 and SB703 – Uncodified Act - **Designating the Trooper Jacqueline Vernon Memorial Bridge.** Designates the Interstate 395 bridge over S. Glebe Road in Arlington County the "Trooper Jacqueline Vernon Memorial Bridge." This bill is identical to [SB 703](#).

HB2183 and SB753 – Uncodified Act - **Designating the Trooper Andrew Fox Memorial Bridge.** Designates the New River Bridge on Interstate 81 in Montgomery and Pulaski Counties the "Trooper Andrew Fox Memorial Bridge." This bill is identical to [SB 753](#).

SB1303 – Uncodified Act - **Designating the Trooper Donald E. Lovelace Memorial Bridge.** Designates the Route 134 bridge that crosses U.S. Route 17 in York County the "Trooper Donald E. Lovelace Memorial Bridge."

SB1304 – Uncodified Act - **Designating the Trooper Garland Matthew Miller Memorial Bridge.** Designates the Barlow Road overpass that crosses Interstate 64 in York County the "Trooper Garland Matthew Miller Memorial Bridge."

HB2184 and SB1259 - §§ 46.2-1600, 46.2-1601, 46.2-1602, 46.2-1603.2, 46.2-1605, 46.2-1608, and 46.2-1608.2. - **Salvage and rebuilt vehicles; penalty.** Enhances and clarifies certain requirements and practices relating to the licensing and activities of vehicle demolishers, rebuilders, salvage dealers, salvage pools, scrap metal processors, and vehicle removal operators. This bill is identical to [SB 1259](#).

HB1607 - § 32.1-282.1 - **Per diem medicolegal death investigators.** Authorizes the Chief Medical Examiner to appoint per diem medicolegal death investigators to assist the Office of the Chief Medical Examiner with medicolegal death investigations and provides that per diem medicolegal death investigators shall be agents of the Commonwealth.

HB1859 and SB858 - §§ 10.1-115 through 10.1-119 - **Conservation officers; Breaks Interstate Park.** Establishes qualifications and procedures for the commissioning as conservation officers of employees of Breaks Interstate Park, a park located in both Kentucky and Virginia and administered by the Breaks Interstate Park Commission. The bill gives all conservation officers jurisdiction over Virginia portions of the park, with the agreement of the Commission, and obligates conservation officers to uphold the rules and regulations of the Commission. This bill is identical to [SB 858](#).

HB1961 - § 29.1-109 - **Reciprocal law-enforcement agreements.** Authorizes the Director of the Department of Game and Inland Fisheries to enter into agreements with other states to enforce hunting, fishing, and trapping laws across state boundaries.

HB2273 and SB1358 - § 62.1-132.12 - **Virginia Port Authority police powers.** Expands the police powers of the Virginia Port Authority by allowing the Authority to employ special police officers on property owned, leased, or operated by the Authority or its subsidiaries. This bill is identical to [SB 1358](#).

HB1545 and SB685 - §§ 19.2-12, 19.2-56, 19.2-187 and 19.2-187.01 - **United States Postal Service; inspectors.** Removes the word "Inspection" from references to the United States Postal Inspection Service in several criminal procedure sections. The United States Postal Service restructured its law-enforcement agencies in 1997 and currently has two federal law-enforcement agencies with jurisdiction to investigate Postal Service-related crimes. By removing the word "Inspection," both agencies are included in Code sections governing conservators of the peace, issuance of search warrants, and analysis of forensic evidence. This bill is identical to [SB 685](#).

SB1311 - § 53.1-133.02 - **Notice required upon transfer of prisoner.** Requires the sheriff, superintendent, or Department of Corrections to give notice to any victim of the offense for which a prisoner was incarcerated as soon as practicable following the transfer of such prisoner. Under current law, such notice must be given at least 15 days prior to the transfer.

HB1499 and SB1427 - § 32.1-370 - **Right to breastfeed in public places.** Provides that a mother may breastfeed in any place where the mother is lawfully present. Current law allows breastfeeding on any property owned, leased, or controlled by the Commonwealth. This bill is identical to [SB 1427](#).

HB1558 - § 2.2-3705.5 - **Local and regional adult fatality review teams; penalty.** Allows for the creation of local or regional adult fatality review teams upon the initiative of any local or regional law-enforcement agency, department of social services, emergency medical services agency, attorney for the Commonwealth's office, or community services board. The bill provides that such teams may review the death of any person age 60 years or older, or any adult age 18 years or older who is incapacitated, who resides in the Commonwealth and who is in need of temporary or emergency protective services (i) who was the subject of an adult protective services or law-enforcement investigation; (ii) whose death was due to abuse, neglect, or exploitation or acts suggesting abuse, neglect, or exploitation; or (iii) whose death came under the jurisdiction of or was investigated by the Office of the Chief Medical Examiner as occurring in any suspicious, unusual, or unnatural manner. A violation of the confidentiality of the review process is punishable as a Class 3 misdemeanor.

SB817 - § 54.1-2523 - **Prescription Monitoring Program; disclosure of information.** Requires the Director of the Department of Health Professions to disclose information from the Prescription Monitoring Program relevant to a specific investigation, supervision, or monitoring of a specific recipient for purposes of the administration of criminal justice to a probation or parole officer or local community-based probation officer who has completed the Virginia State Police Drug Diversion School designated by the Director of the Department of Corrections or his designee.

HB1694 and SB966 - §§ 16.1-340.1:1 and 37.2-809.1 - **Temporary detention order; custody.** Removes the requirement that a person subject to a temporary detention order remain in the custody of the community services board for the duration of the order. This requirement was in conflict with other Code sections that require that such person remain in the custody of law enforcement until custody is transferred to a facility or to an alternative transportation provider. This bill is identical to [SB 966](#).

SB969 - §§ 2.2-3701 and 2.2-3707 - **Virginia Freedom of Information Act (FOIA); exception to open meeting requirements.** Clarifies that the gathering or attendance of two or more members of a public body (i) at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body, or (ii) at a public forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to transact public business or to hold discussions relating to the transaction of public business, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion or debate at such public meeting, is not a meeting under FOIA. The bill contains a technical amendment.

SB1109 - § 2.2-3711 - **Virginia Freedom of Information Act (FOIA); open meeting exemptions; discussions relating to cybersecurity.** Expands the open meeting exemption for the discussion of plans to protect public safety as it relates to terrorism and security of governmental facilities to include the discussion of specific cybersecurity threats or vulnerabilities, including the discussion of related records excluded from FOIA, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program. The bill contains an emergency clause.

SB1129 - § 2.2-3705.2 - **Virginia Freedom of Information Act; record exemption for public safety; cybersecurity.** Expands the current record exemption for plans and information to prevent or respond to terrorism to include information not lawfully available to the public regarding specific cybersecurity threats or vulnerabilities or security plans and measures of an entity, facility, building structure, information technology system, or software program. The bill contains an emergency clause and technical amendments.

HB1606 and SB1217 - §§ 2.2-3701 and 9.1-101 - **Private police departments.** Defines "private police department" as any police department that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department. The bill provides that the authority of a private police department is limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or

sheriff, any contiguous property. The bill also provides that private police departments and private police officers shall be subject to and comply with the relevant laws and regulations governing municipal police departments and shall meet the minimum compulsory training requirements for law-enforcement officers. The bill provides further that any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department of Criminal Justice Services at that time may continue to operate as a private police department, provided that it complies with the necessary requirements. The private police departments so recognized by the Department are the Aquia Harbor Police Department, the Babcock and Wilcox Police Department, the Bridgewater Airpark Police Department, the Carilion Police and Security Services Department, the Kings Dominion Park Police Department, the Kingsmill Police Department, the Lake Monticello Police Department, the Massanutten Police Department, and the Wintergreen Police Department. The bill contains an emergency clause. This bill is identical to [SB 1217](#).

HB1718 - §§ 9.1-139 and 9.1-144 - **Private investigators; personal protection specialist; independent contractors.** Allows a licensed private security services business to hire as an independent contractor a personal protection specialist or private investigator who has been issued a registration by the Department of Criminal Justice Services. The bill also requires such independent contractors to maintain comprehensive general liability insurance.

HB188 and SB1184 - §§ 9.1-102, 44-146.18 and adding 15.2-1718.2 - **Missing persons; search and rescue.** Provides that no local law-enforcement agency shall establish or maintain any policy that requires a waiting period before accepting a critically missing adult report and requires a local law-enforcement agency that receives such a report to initiate an investigation of the case within two hours of receipt. The bill defines a critically missing adult as any missing adult 21 years of age or older whose disappearance indicates a credible threat to the health and safety of the adult as determined by a law-enforcement agency and under such other circumstances as deemed appropriate after consideration of all known circumstances. The bill requires the Department of Criminal Justice Services to establish training standards and publish a model policy for missing children, missing adults, and search and rescue protocol. The bill also requires the Department of Emergency Management to establish a Coordinator of Search and Rescue. This bill is a recommendation of the Virginia State Crime Commission and is identical to [SB 1184](#).

HB2342 and SB1430 - § 46.2-1601.1 - **Display of salvage license numbers.** Prohibits advertising to the public the sale, transport, delivery, removal, or receipt of a salvage or nonrepairable vehicle, or the major component parts of such vehicle, unless the seller is a licensee or an exempt individual. The bill requires a licensee advertiser to display its salvage license number in such advertisement and to state in any such advertisement placed in a newspaper, online, or by other electronic means the company's name, address, and telephone number in addition to its salvage license number. This bill is identical to [SB 1430](#).

SB1121 - § 2.2-603 - **IT responsibility of agency directors.** Provides that the director of every department in the executive branch of state government shall be responsible for securing the electronic data held by his department and shall comply with the requirements of the Commonwealth's information technology security and risk management program as developed by the Chief Information Officer.

HB2082 - § 8.01-225 - **Civil immunity for rendering emergency care; forcible entry of motor vehicle to remove a minor.** Provides that the civil immunity granted for rendering emergency care or assistance includes the forcible entry of a motor vehicle to remove an unattended minor at risk of serious bodily injury or death, provided the person has attempted to contact a law-enforcement officer, a firefighter, emergency medical services personnel, or an emergency 911 system prior to such entry, if feasible under the circumstances.

SB1377 - § 2.2-1150.2 - **Department of General Services; state-owned communication towers; charges for use.** Removes the requirement that the amount charged to lease use of a state-owned communication tower be commensurate with the amount paid for use of comparable space on similar towers.

SB997 - § 32.1-111.5 - **Emergency medical services personnel; background checks; process.** Allows local governments, by adoption of an ordinance, to use an alternative method for criminal history background checks for emergency medical services personnel. Emergency medical services agencies in such localities shall require applicants to submit fingerprints and personal identifying information to be provided directly to the Central Criminal Records Exchange, which shall forward the results of the state and national records search to the local government

or chief law-enforcement officer of the locality, who shall notify the Office of Emergency Medical Services of the applicant's eligibility for employment or volunteer service. This bill incorporates [SB 837](#).

HB2092 and SB1094 - § 9.1-102 is amended by sections numbered 9.1-116.2 and 9.1-116.3 - **Sexual and domestic violence; establishment of committees.** Establishes the Virginia Sexual and Domestic Violence Program Professional Standards Committee and requires the Department of Criminal Justice Services to administer its activities by providing technical assistance and administrative support. This Committee is tasked with establishing voluntary accreditation standards and procedures by which local sexual and domestic violence programs can be systematically measured and evaluated with a peer-reviewed process. An Advisory Committee on Sexual and Domestic Violence is also established and has the responsibility for advising and assisting state and local entities on matters related to the prevention and reduction of sexual and domestic violence and to promote the efficient administration of grant funds. This bill incorporates [HB 1954](#), is identical to [SB 1094](#), and is a recommendation of the Virginia State Crime Commission.

SB845 - § 8.01-225.3 - **Immunity for volunteer first responders en route to an emergency.** Provides that no volunteer firefighter or volunteer emergency services personnel shall be liable for any injury to persons or property arising out of the operation of an emergency vehicle when such volunteer is en route to respond to a fire or to render emergency care or assistance to any ill or injured person at the scene of an accident, fire, or life-threatening emergency and the emergency vehicle displays warning lights and sounds a siren, exhaust whistle, or air horn, unless such injury results from gross negligence or willful or wanton misconduct. Such immunity shall be in addition to, not in lieu of, any other applicable immunity provided by state or federal law.

SB908 - § 19.2-392.2 - **Expungement of police and court records; hearing.** Provides that within 21 days after being served with a petition requesting expungement of police and court records, the attorney for the Commonwealth may give written notice to the court that he does not object to the petition and, if the charge to be expunged is a felony, that he stipulates that the continued dissemination of such records constitutes a manifest injustice to the petitioner. If such notice is given, the court may enter an order of expungement without conducting a hearing. This bill is a recommendation of the Virginia Criminal Justice Conference.

HB1466 and SB1048 - § 30-34.2:1 - **Capitol Police; security for Governor-elect, Lieutenant Governor-elect, Attorney General-elect, and members of the Court of Appeals.** Expands the jurisdiction of the Capitol Police for the purpose of providing security for the Governor-elect, Lieutenant Governor-elect, Attorney General-elect, and members of the Court of Appeals. Under current law, the Capitol Police have expanded jurisdiction when providing security for the Governor and his family, the Lieutenant Governor, the Attorney General, members of the General Assembly, and members of the Supreme Court of Virginia. This bill contains technical amendments and is identical to [SB 1048](#).

HB1824 - § 46.2-105.1 - **Unlawful provision of driver's license examination answers.** Provides that it is a Class 2 misdemeanor for a person to communicate by any means to a person taking an examination, during the examination, any information purporting to be answers to questions intended to be used by the Department of Motor Vehicles in conducting an examination. Under current law, it is unlawful to receive or furnish written or printed material purporting to be answers to such questions.

HB1957 - § 46.2-383 - **Juvenile records; Department of Motor Vehicles.** Provides that Department of Motor Vehicles information on juvenile offenses that do not involve the operation of a motor vehicle shall be available only to the person himself, his parent or guardian, law-enforcement officers, attorneys for the Commonwealth, and courts. This bill is a recommendation of the Virginia State Crime Commission.

HB1890 and SB942 - §§ 51.1-142.2 and 51.1-142.3 - **Virginia Retirement System; purchase of service credit for prior service.** Makes numerous changes to the purchase of service credit program to simplify it and make it more cost-neutral to the Retirement System fund and more in line with other states' programs. The bill has a delayed effective date of January 1, 2017.

HB2049 - § 19.2-190.1 - **Preliminary hearing; certification of ancillary misdemeanor offenses.** Provides that if, pursuant to a preliminary hearing, a district court certifies felony offenses to be tried in a circuit court, the court shall

also certify any ancillary misdemeanor offense for trial in circuit court if the accused and the attorney for the Commonwealth consent to such certification.

SB1133 - § 2.2-3103 - **Prohibited conduct by state and local government officers and employees; retaliation.** Prohibits a state or local government officer or employee from using his public position to retaliate or threaten retaliation against any person for expressing views on matters of public concern or for exercising any right that is otherwise protected by law. The bill provides, however, that the prohibition does not (i) restrict the authority of any public employer to govern conduct of its employees, and to take disciplinary action, in accordance with applicable law or (ii) limit the authority of a constitutional officer to discipline or discharge an employee with or without cause.

HB2081 - § 40.1-28.7:5 - **Employers; disclosure of social media account information.** Prohibits an employer from requiring a current or prospective employee to disclose the username and password to his social media account. The measure also prohibits an employer from requiring an employee to add an employee, a supervisor, or an administrator to the list of contacts associated with the employee's social media account.

SB794 - § 19.2-271 - **Testimony of certain judicial personnel.** Clarifies that certain persons who have the power to issue warrants are competent to testify in a criminal proceeding in which the defendant is charged with perjury.

HB2204 - §§ 9.1-400, 9.1-401, 9.1-402 through 9.1-405 and 9.1-407 and adding, 9.1-400.1 and Article 3.1 of Chapter 1 of Title 51.1 a section numbered 51.1-124.37 -**Line of Duty Act.** Revises the Line of Duty Act (the Act) by codifying revisions to the Act in the appropriation act, transferring overall administration of the Act to the Virginia Retirement System (VRS), transferring administration of health insurance benefits under the Act to the Department of Human Resource Management (DHRM), and providing for an administrative appeal process. The bill also directs VRS and DHRM, with the input of all stakeholders, to develop proposals on how to improve the Act and ensure its long-term fiscal viability. Except for the development of proposals by VRS and DHRM, the bill becomes effective July 1, 2016, and only if reenacted by the 2016 Session of the General Assembly.

SB1434 - §§ 32.1-309.1 and 32.1-309.2 - **Disposition of dead bodies.** Provides that in cases in which the identity of a decedent and the county or city in which the decedent resided at the time of death are known, the person or institution having initial custody of the dead body shall notify the primary law-enforcement agency for the county or city in which the decedent resided of the decedent's death, and such law-enforcement agency shall make good faith efforts to identify and notify the decedent's next of kin. Currently, the primary law-enforcement agency for the county or city in which the person or institution having initial custody of the dead body is located is responsible for making good faith efforts to identify the decedent and notify the decedent's next of kin.

HB1790 - § 2.2-4350.1 - **Prohibition on payments without an appropriation; prohibition on IOUs.** Prohibits a state agency or official from attempting, guaranteeing, or purporting to pay for a good or service or a debt unless the General Assembly has appropriated funds, or funds are otherwise lawfully available, to pay the same. The prohibition on payment does not apply to payments required by federal law. The bill also prohibits a state agency or official from furnishing an IOU in exchange for any good or service, as a means to pay for any good or service, or in lieu of a payment on a debt.

HB1570 - §§ 15.2-2292, 19.2-389, 19.2-392.02, 63.2-100, 63.2-1702, 63.2-1704, 63.2-1720 through 63.2-1723, 63.2-1725 and 63.2-1727 and adding sections numbered 63.2-1701.1 63.2-1704.1, 63.2-1720.1 and 63.2-1721.1 - **Family day homes and child day centers; licensure; background checks; reporting; notice.** Requires fingerprint-based national criminal history records checks for licensed child day centers and family day homes and requires employees and volunteers of such child day centers and family day homes to notify the provider if they are convicted of a barrier crime or subject to a founded complaint of child abuse or neglect. The bill adds the offenses that require registration in the Sex Offender and Crimes Against Minors Registry to the list of barrier crimes specific to family day homes. The bill lowers from five to four the maximum number of children for whom a family day home may provide care without a license, exclusive of the provider's children and any children who reside in the home. The bill requires (i) local commissioners of the revenue or other local business license officials to report to the Department of Social Services (the Department) semiannually the contact information for any child day center or family day home to which a business license was issued; (ii) unlicensed and unregistered family day homes, other than those in which all of the children receiving care are related to the provider by blood or marriage, to provide

written notice to parents stating that the family day home is not regulated by the Department and referring the parents to a website maintained by the Department for additional information; and (iii) child day centers and family day homes that contract with the Department to provide child care services that are funded by the Child Care and Development Block Grant to comply with all requirements established by federal law and regulation. The bill also requires the Department to (a) develop recommendations related to appropriate criminal and civil penalties for individuals who wrongfully operate a child day center or family day home without a license or provide care for more children than the maximum number permitted under their license; (b) report on the requirements established in the Child Care and Development Block Grant to the Senate Committee on Rehabilitation and Social Services and the House Committee on Health, Welfare and Institutions by December 1, 2015; (c) develop and make available to child day centers and family day homes training and technical information and assistance regarding compliance with new licensure requirements established in the bill; and (d) work with certain localities authorized to regulate and license family day homes to identify and address any differences between ordinances adopted by such localities and state regulations for the licensure of family day homes. The provisions of the bill that require licensure of family day homes providing care for five or more children have a delayed effective date of July 1, 2016. The provisions of the bill that require fingerprint-based national criminal history records checks have a delayed effective date of July 1, 2017. This bill is identical to [SB 1168](#).

HB1835 and SB1371 - §§ 2.2-2012, 2.2-4301, 2.2-4302.2, 2.2-4303, 2.2-4304, 2.2-4343, 23-38.110 and 33.2-283 and adding sections numbered 2.2-4303.1 and 2.2-4303.2 - **Virginia Public Procurement Act (VPPA); methods of procurement; job order contracting and cooperative procurement.** Clarifies that small purchase procedures include the procurement of non-transportation-related construction and that any such procedures shall not waive compliance with the Uniform State Building Code. The bill adds independent agencies of the Commonwealth to the definition of public body under the VPPA. The bill also increases contract amounts for job order contracting and provides that (i) order splitting with the intent of keeping a job order under the maximum dollar amounts prescribed is prohibited; (ii) no public body shall issue or use a job order, under a job order contract, solely for the purpose of receiving professional architectural or engineering services that constitute the practice of architecture or the practice of engineering as those terms are defined in § 54.1-400; however, professional architectural or engineering services may be included on a job order where such professional services are (a) incidental and directly related to the job, (b) do not exceed \$25,000 per job order, and (c) do not exceed \$75,000 per contract term; and (iii) job order contracting shall not be used for construction, maintenance, or asset management services for a highway, bridge, tunnel, or overpass. The bill clarifies the provisions of the VPPA relating to cooperative procurement and requires that by October 1, 2017, the Department of Small Business and Supplier Diversity, public institutions of higher education having level 2 or 3 authority under the Restructured Higher Education Financial and Administrative Operations Act of 2005, any state agency utilizing job order contracting, and the Virginia Association of Counties, the Virginia Municipal League, and the Virginia Association of Governmental Purchasing, on behalf of local public bodies, working cooperatively, report their respective experiences and findings relating to the appropriateness and effectiveness of job order contracting in general, the job order project cost limitations as added by this bill, and the architectural and professional engineering term contract limits to the Chairmen of the House Committee on General Laws and the Senate Committee on General Laws and Technology. The bill also requires, for construction projects in excess of \$2 million, that a public body, including public institutions of higher education, provide its justification for use of any procurement method other than competitive sealed bidding to the Director of the Department of General Services. The bill requires the State Corporation Commission (SCC) to develop a process for the administrative review of its procurement decisions that is consistent with the Constitution of Virginia. The bill further provides that its provisions shall not apply to any solicitation issued or contract awarded before July 1, 2015, except that the provisions of subsection B of § 2.2-4303.2, as added by the bill, shall apply to any renewal of a job order contract. The bill contains numerous technical amendments and is a recommendation of the General Laws Special Joint Subcommittee Studying the Virginia Public Procurement Act. This bill is identical to [SB 1371](#).

HB2070 and SB1424 - §§ 2.2-115, 2.2-206.2, 2.2-419, 2.2-420, 2.2-424, 2.2-426, 2.2-430, 2.2-431, 2.2-3101, 2.2-3103.1, 2.2-3104, 2.2-3104.01, 2.2-3106, 2.2-3114 through 2.2-3118, 2.2-3121, 2.2-3124, 30-101, 30-103.1, 30-110, 30-111, 30-124, 30-126, 30-355, 30-356, and 30-357 and adding 2.2-3103.2 and 30-356.1 - **State and Local Government Conflict of Interests Act, General Assembly Conflicts of Interests Act, and Virginia Conflict of Interest and Ethics Advisory Council; certain gifts prohibited; approvals required for certain travel.** Removes the distinction between tangible and intangible gifts and prohibits any state or local officer or employee, member of the General Assembly, and certain candidates from soliciting, accepting, or receiving within any calendar year a single gift with a value exceeding \$100 or a combination of gifts with a value exceeding \$100

from certain persons; however, such prohibition does not apply to gifts from personal friends. The bill also prohibits the immediate family of such officers, employees, members, or candidates from soliciting, accepting, or receiving such gifts. The bill provides an exception for gifts received at widely attended events, which are those events at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event. The bill requires disclosure of any single gift or entertainment, or any combination of gifts or entertainment, with a value exceeding \$50. The bill also requires persons subject to the Conflict of Interest Acts to request approval from the Virginia Conflict of Interest and Ethics Advisory Council (the Council) and receive the approval of the Council prior to accepting or receiving any travel-related transportation, lodging, meal, hospitality, or other thing of value provided by certain third parties that has a value exceeding \$100. The bill modifies the current composition of the Council, reducing the number of members from 15 to 9 and requires that there be bipartisan balance of the General Assembly members appointed to the Council. The bill requires electronic filing of disclosure forms with the Council and provides that local officers and employees will file disclosure forms locally instead of with the Council. The bill provides that the making of a knowing and intentional false statement on a disclosure form is punishable as a Class 5 felony. The bill also prohibits the Governor, his campaign committee, and any political action committee established on his behalf from knowingly soliciting or accepting a contribution, gift, or other item with a value greater than \$100 from persons and entities seeking loans or grants from the Commonwealth's Development Opportunity Fund (the Fund), restricts such gifts and contributions from persons and entities seeking loans or grants from the Fund, and provides that any violation shall result in a civil penalty of \$500 or up to two times the amount of the contribution or gift, whichever is greater. The bill has a delayed effective date of January 1, 2016, except the provisions of the bill related to the Council and its duties become effective July 1, 2015. This bill incorporates [HB 1598](#), [HB 1667](#), [HB 1689](#), [HB 1919](#), [HB 1947](#), and [HB 2060](#) and is identical to [SB 1424](#).

**HB2125 and SB1301 - § 19.2-60.1 - Use of unmanned aircraft systems by public bodies; search warrant required.** Replaces the moratorium currently set to expire on July 1, 2015, on the use of unmanned aircraft systems by state and local law-enforcement and regulatory entities, except in defined emergency situations or in training exercises related to such situations, with an absolute prohibition on the use of unmanned aircraft systems by such law-enforcement and regulatory entities unless a search warrant has been obtained prior to such use. The warrant requirement does not apply to (i) utilization of such systems to support the Commonwealth for purposes other than law enforcement; (ii) certain search and rescue operations; (iii) certain Virginia National Guard and United States Armed Forces functions; (iv) research and development conducted by institutions of higher education or other research organizations; or (v) the use of unmanned aircraft systems for private, commercial, or recreational use.

**HB2206 and SB1195 - §§ 9.1-150.2, 15.2-1748 and 19.2-13 - Special conservators of the peace; training, orders of appointment, registration, etc.** Makes various changes to the laws providing for the appointment of special conservators of the peace, including (i) requiring the Criminal Justice Services Board to adopt regulations establishing compulsory training standards of 98 hours for unarmed special conservators of the peace and 130 hours for armed special conservators of the peace; (ii) specifying that the court retains jurisdiction over the special conservator of the peace's appointment order throughout the length of the appointment; (iii) providing that a copy of the application for appointment of a special conservator of the peace shall be transmitted to the local attorney for the Commonwealth and the local sheriff or chief of police, who may submit to the court a sworn, written statement regarding the appointment; (iv) providing a process for the revocation of a special conservator of the peace's appointment; (v) restricting the geographical limitations of a special conservator of the peace appointed to provide services for a corporate applicant to the real property where the applicant is located, or any real property contiguous to such property; (vi) providing that the appointment order may permit the special conservator of the peace to use the seal of the Commonwealth and the title "police" upon request for good cause shown; (vii) prohibiting the special conservator of the peace from using blue flashing lights, but providing that the appointment order may permit the use of flashing lights and sirens upon request and for good cause shown; (viii) requiring that the appointment order specify the geographical limitations of the special conservator of the peace's authority; (ix) requiring all applicants for temporary registration to submit the results of a background investigation to the Department of Criminal Justice Services (the Department); (x) prohibiting persons required to register with the Sex Offender and Crimes Against Minors Registry from being appointed as special conservators of the peace; (xi) requiring a special conservator of the peace to report if he is arrested for, charged, with, or convicted of certain misdemeanor or felony offenses within 3 days; (xii) removing the option for a special conservator of the peace to be covered by a bond in lieu of insurance; (xiii) requiring all persons currently appointed or seeking appointment or reappointment as a special conservator of the peace to register with the Department; and (xiv) permitting localities to enter into mutual aid agreements with

any entity employing special conservators of the peace that is located in such locality for the use of their joint forces and their equipment to maintain peace and good order. The bill provides that any existing special conservator of the peace has 36 months to comply with any new compulsory, minimum, entry-level training standards and requirements established following his appointment. This bill is identical to [SB 1195](#).